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NEW DELHI, SATURDAY, MAY 16, 1992/VAISAKHA 26, 1914

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii) PART II—Section 3—Sub-section (ii)

(रक्षा मंत्रालय को छोड़कर) भारत सरकार के मंत्रालयों द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications issued by the Ministries of the Government
of India (other than the Ministry of Defence)

विधि और न्याय मंत्रालय

(विधि कार्य विभाग)

(न्यायिक विभाग)

नई दिल्ली, 25 फरवरी, 1992

का. आ. 1226—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्रीमती अरुणा किरन कालुस्कर एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे शिवाजी नगर, पुणे (महाराष्ट्र) व्यवसाय करने के लिये नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आशेष इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं एफ. 5(60)/92 न्यायिक]
पी.सी. कण्णन, सक्षम प्राधिकारी

MINISTRY OF LAW & JUSTICE
(Department of Legal Affairs)
(Judicial Sections)
New Delhi, the 25th February, 1992

S.O. 1226.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956,

that application has been made to the said Authority, under Rule 4 of the said Rules, by Shrimati Aruna Kiran Kaluskar, Advocate for appointment as a Notary to practise in Shiwaji Nagar, Pune, (Maharashtra).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this Notice.

[No. F. 5(60)/92-Judl.]

P. C. KANAN, Competent Authority

नई दिल्ली 28 फरवरी 1992

का. आ. 1227—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री सुरेश कुमार मंगल, एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे नमोराबाद (राजस्थान) में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आशेष इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[संख्या एफ. 5(65)/92-न्यायिक]

पी.सी. कण्णन, सक्षम प्राधिकारी

(2213)

New Delhi, the 28th February, 1992

S.O. 1227.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956, that application has been made to the said Authority, under Rule 4 of the said Rules, by Shri Suresh Kumar Mangal, Advocate for appointment as a Notary to practise in Nasirabad, (Rajasthan).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this Notice.

[No. F. 5(65)/92-Judl.]

P. C. KANAN, Competent Authority

नई दिल्ली, 3 मार्च, 1992

का. आ. 1227.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री एस. एम. एम. बाथिया, एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे शिवाजी नगर पुणे (महाराष्ट्र) में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं 5(63)/92-न्यायिक]

पी० सी० कण्णन, सक्षम प्राधिकारी

New Delhi, the 3rd March, 1992

S.O. 1228.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956, that application has been made to the said Authority, under Rule 4 of the said Rules, by Shri H. S. Bathia, Advocate for appointment as a Notary to practise in Shivaji Nagar, Pune, (Maharashtra).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this Notice.

[No. F. 5(68)/92-Judl.]

P. C. KANAN, Competent Authority

नई दिल्ली 4 मार्च, 1992

सूचना

का. आ. 1229.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री एस. एस. शाहपुरकर, एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे गारे गांव, बम्बई (महाराष्ट्र) व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं 5(71)/92-न्यायिक]

पी० सी० कण्णन, सक्षम प्राधिकारी

New Delhi, the 4th March, 1992

S.O. 1229.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956, that application has been made to the said Authority, under Rule 4 of the said Rules, by Shri N. S. Shahpurkar, Advocate for appointment as a Notary to practise in Goregaon, Bombay, Maharashtra.

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this Notice.

[No. F. 5(71)/92-Judl.]

P. C. KANAN, Competent Authority

नई दिल्ली, 6 मार्च, 1992

का. आ. 1230.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री पांडुरंग केरु राहाल ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे महाराष्ट्र राज्य व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं 5(73)/92-न्यायिक]

पी० सी० कण्णन, सक्षम प्राधिकारी

New Delhi, the 6th March, 1992

S.O. 1230.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956, that application has been made to the said Authority, under Rule 4 of the said Rules, by Shri Pandurang Keru Rahatal, Advocate for appointment as a Notary to practise in Maharashtra State.

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this Notice.

[No. F. 5(73)/92-Judl.]

P. C. KANAN, Competent Authority

नई दिल्ली, 13 मार्च, 1992

का. आ. 1231.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री केशव दयाल शर्मा एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे बाड़ा जिला धोलपुर (राजस्थान) में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं 5(81)/92-न्यायिक]

पी० सी० कण्णन, सक्षम प्राधिकारी

New Delhi, the 13th March, 1992

S.O. 1231.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956, that application has been made to the said Authority, under Rule 4 of the said Rules, by Shri Keshav Dayal Sharma, Advocate for appointment as a Notary to practise in BARA, Distt. Dholpur (Rajasthan).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this Notice.

[No. F. 5(81)/92-Judl.]

P. C. KANAN, Competent Authority

नई दिल्ली, 13 मार्च, 1992

New Delhi, the 20th March, 1992

का. आ. 1232.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री एन. एम. अमीन एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे पारेल, बॉम्बे, महाराष्ट्र में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. एक 5 (82)/92-न्यायिक]

पी. सी. कण्णन, सक्षम प्राधिकारी

New Delhi, the 13th March, 1992

S.O. 1232.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956, that application has been made to the said Authority, under Rule 4 of the said Rules, by Shri N.M. Amin, Advocate for appointment as a Notary to practise in Parel Village, Bombay, (Maharashtra).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this Notice.

[No. F. 5(82)/92-Judl.]

P. C. KANAN, Competent Authority

नई दिल्ली, 20 मार्च, 1992

का. आ. 1233.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री के. अशोक चक्रवर्ती, एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे कुल्वाई (मद्रास) में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. एक 5(85)/92-न्यायिक]

पी. सी. कण्णन, सक्षम प्राधिकारी

New Delhi, the 20th March, 1992

S.O. 1233.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956, that application has been made to the said Authority, under Rule 4 of the said Rules, by Shri K. Ashok Chakravarthy, Advocate for appointment as a Notary to practise in Cholai (Madras).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this Notice.

[No. F. 5(85)/92-Judl.]

P. C. KANAN, Competent Authority

नई दिल्ली, 20 मार्च, 1992

का. आ. 1234.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री सुशील दावे, एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे रीयपेट्टाह (मद्रास) में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. एक 5(86)/92-न्यायिक]

पी. सी. कण्णन, सक्षम प्राधिकारी

S.O. 1234.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules, by Shri A. P. Surya Prakasam, Advocate for appointment as a Notary to practise in Royapettah, (Madras-14).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this Notice.

[No. F. 5(86)/92-Judl.]

P. C. KANAN, Competent Authority

नई दिल्ली, 20 मार्च, 1992

का. आ. 1235.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री वी. मोहन एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे नाम्मलवारपेट मद्रास में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. एक 5(87)/92-न्यायिक]

पी. सी. कण्णन, सक्षम प्राधिकारी

New Delhi, the 20th March, 1992

S.O. 1235.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956, that application has been made to the said Authority, under Rule 4 of the said Rules, by Shri V. Mohan, Advocate for appointment as a Notary to practise in Nammalwarpet, Madras.

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this Notice.

[No. F. 5(87)/92-Judl.]

P. C. KANAN, Competent Authority

नई दिल्ली, 23 मार्च, 1992

का. आ. 1236.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री सुशील दावे, एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे बंसवारा जिला राजस्थान में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. एक 5(89)/92-न्यायिक]

पी. सी. कण्णन, सक्षम प्राधिकारी

New Delhi, the 23rd March, 1992

S.O. 1236.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956, that application has been made to the said Authority, under Rule 4 of the said Rules, by Shri Sushil Davo, Advocate for appointment as a Notary to practise in District Banswara, (Rajasthan).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this Notice.

[No. F. 5(89)/92-Judl.]

P. C. KANAN, Competent Authority

नई दिल्ली, 23 मार्च, 1992

का.प्रा. 1237.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री नरेश कुमार अग्रवाल, एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे जलंधर छावनी (जिला जलंधर) पंजाब में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. एफ. 5(92)/92-न्यायिक]

पी. सी. कण्णन, सक्षम प्राधिकारी

New Delhi, the 23rd March, 1992

S.O. 1237.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956, that application has been made to the said Authority, under Rule 4 of the said Rules, by Shri Naresh Kumar Aggarwal, Advocate for appointment as a Notary to practise in Janan-dhar Cantonment, District Jalandhar, (Punjab).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this Notice.

[No. F. 5(92)/92-Judl.]

P. C. KANAN, Competent Authority

नई दिल्ली, 23 मार्च, 1992

का.प्रा. 1238 नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री कृष्ण कुमार कौशिक एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे कुरुक्षेत्र (हरियाणा) में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. एफ. 5(93)/92-न्यायिक]

पी. सी. कण्णन, सक्षम प्राधिकारी

New Delhi, the 23rd March, 1992

S.O. 1238.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956, that application has been made to the said Authority under Rule 4 of the said Rules, by Shri Krishan Kumar Kaushik, Advocate for appointment as a Notary to practise in Kurukshetra, (Haryana).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this Notice.

[No. F. 5(93)/92-Judl.]

P. C. KANAN, Competent Authority

नई दिल्ली, 23 मार्च, 1992

का.प्रा. 1239.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री विजय मोहन अग्रवाल एडवोकेट, ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे अम्बाला सिटी (हरियाणा) में व्यवसाय करने के लिए नोटरी

के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. फा. 5(94)/92-न्यायिक]

पी. सी. कण्णन, सक्षम प्राधिकारी

New Delhi, the 23rd March, 1992

S.O. 1239.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956, that application has been made to the said Authority, under Rule 4 of the said Rules, by Shri Vijay Mohan Aggarwal, Advocate for appointment as a Notary to practise in Ambala City (Haryana).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this Notice.

[No. F. 5(94)/12-Judl.]

P. C. KANAN, Competent Authority

नई दिल्ली, 23 मार्च, 1992

का.प्रा. 1240.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री सरजीत सिंह एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे पहेवा, जिला कुरुक्षेत्र (हरियाणा) में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. एफ. 5(95)/92-न्यायिक]

पी. सी. कण्णन, सक्षम प्राधिकारी

New Delhi, the 23rd March, 1992

S.O. 1240.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956, that application has been made to the said Authority, under Rule 4 of the said Rules, by Shri Sarjit Singh Advocate for appointment as a Notary to practise in Pehowa, District, Kurukshetra (Haryana).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this Notice.

[No. F. 5(95)/92-Judl.]

P. C. KANAN, Competent Authority

नई दिल्ली, 23 मार्च, 1992

का.प्रा. 1241.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री खजान सिंह एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे कैथन (हरियाणा) में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. एफ. 5(96)/92-न्यायिक]

पी. सी. कण्णन, सक्षम प्राधिकारी

New Delhi, the 23rd March, 1992

S.O. 1241.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956, that application has been made to the said Authority, under Rule 4 of the said Rules, by Shri Khazan Singh Advocate for appointment as a Notary to practise in Kaithan (Haryana).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this Notice.

[No. F. 5(96)/92-Judl.]

P. C. KANAN, Competent Authority

नई दिल्ली, 23 मार्च, 1992

का.आ. 1242—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री सुदर्शन लाल मेहता एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे जालंधर (पंजाब) में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. फा. 5(97)/92-न्यायिक]
पी.सी. कण्णन, सक्षम प्राधिकारी

New Delhi, the 23rd March, 1992

S.O. 1242.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956, that application has been made to the said Authority, under Rule 4 of the said Rules, by Shri Sudarshan Lal Mehta Advocate for appointment as a Notary to practise in Jalandhar Punjab.

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this Notice.

[No. F. 5(97)/92-Judl.]
P. C. KANAN, Competent Authority

नई दिल्ली, 25 मार्च, 1992

का.आ. 1243—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री रणजीत सिंह सोनी एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे श्री गंगानगर (राजस्थान) में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. फा. 5(100)/92-न्यायिक]
पी.सी. कण्णन, सक्षम प्राधिकारी

New Delhi, the 25th March, 1992

S.O. 1243.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956, that application has been made to the said Authority, under Rule 4 of the said Rules, by Shri Ranjit Singh Soni Advocate for appointment as a Notary to practise in Sranganagar, Rajasthan.

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this Notice.

[No. F. 5(100)/92-Judl.]
P. C. KANAN, Competent Authority

नई दिल्ली, 26 मार्च, 1992

का.आ. 1244—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री कन्हू शोकू कमल एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे बम्बई (महाराष्ट्र) में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. फा. 5(106)/92-न्यायिक]
पी.सी. कण्णन, सक्षम प्राधिकारी

New Delhi, the 26th March, 1992

S.O. 1244.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956, that application has been made to the said Authority, under Rule 4 of the said Rules, by Shri Phandu Bhikku Kamat Advocate for appointment as a Notary to practise in Bombay Maharashtra.

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this Notice.

[No. F. 5(106)/92-Judl.]
P. C. KANAN, Competent Authority
नई दिल्ली, 27 मार्च, 1992

का.आ. 1245 नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा सूचना दी जाती है कि श्री मदन मोहन गुजराती एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे मिराज (मध्य प्रदेश) में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. फा. 5(108)/92-न्यायिक]
पी.सी. कण्णन, सक्षम प्राधिकारी

New Delhi, the 27th March, 1992

S.O. 1245.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956, that application has been made to the said Authority, under Rule 4 of the said Rules, by Shri Madan Mohan Gujarati Advocate for appointment as a Notary to practise in Siroj (Madhya Pradesh).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this Notice.

[No. F. 5(108)/92-Judl.]
P. C. KANAN, Competent Authority

नई दिल्ली, 31 मार्च, 1992

का.आ. 1246—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री साहब राम स्वामी एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे सूरतगढ़ जिला श्रीगंगानगर (राजस्थान) में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. फा. 5(109)/92-न्यायिक]
पी.सी. कण्णन, सक्षम प्राधिकारी

New Delhi, the 31st March, 1992

S.O. 1246.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956, that application has been made to the said Authority, under Rule 4 of the said Rules, by Shri Sahab Ram Swami Advocate for appointment as a Notary to practise in Suratgarh, Dist. Sranganagar, Rajasthan.

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this Notice.

[No. F. 5(109)/92-Judl.]
P. C. KANAN, Competent Authority

नई दिल्ली, 7 अप्रैल, 1992

का.आ. 1247—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री जोगिन्दर सिंह भाटिया एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे जालंधर (पंजाब) में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. फा० 5(111)/92-न्यायिक]

पी.सी. कणन, सक्षम प्राधिकारी

New Delhi, the 7th April, 1992

S.O. 1247.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956, that application has been made to the said Authority, under Rule 5 of the said Rules, by Sh. Joginder Singh Bhatia, Advocate for appointment as a Notary to practise in Jalandhar (Punjab).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this Notice.

[No. F. 5(111)/92-Judl.]

P. C. KANAN, Competent Authority

नई दिल्ली, 22 अप्रैल, 1992

का.आ. 1248—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री टी.एन. राखेसा एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे नासिराबाद जिला (राजस्थान राज्य) में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. फा० 5(112)/92-न्यायिक]

पी. सी. कणन, सक्षम प्राधिकारी

New Delhi, the 22nd April, 1992

S.O. 1248.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956, that application has been made to the said Authority, under Rule 4 of the said Rules, by Shri T. N. Saxena, Advocate for appointment as a Notary to practise in Nasirabad District (Rajasthan).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this Notice.

[No. F. 5(112)/92-Judl.]

P. C. KANAN, Competent Authority

नई दिल्ली, 23 अप्रैल, 1992

का.आ. 1249—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री गुरेन्द्र लाल सक्श्रा एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे दिल्ली व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. फा० 5(113)/92-न्यायिक]

पी.सी. कणन, सक्षम प्राधिकारी

New Delhi, the 23rd April, 1992

S.O. 1249.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956, that application has been made to the said Authority under Rule 4 of the said Rules, by Shri Surinder Lal Saluja, Advocate for appointment as a Notary to practise in Delhi.

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this Notice.

[No. F. 5(113)/92-Judl.]

P. C. KANAN, Competent Authority

नई दिल्ली, 23 अप्रैल, 1992

का.आ. 1250—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री घनराज पोटल एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे चर्च गेट, फोर्ट एरिया, बम्बई (महाराष्ट्र) में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. फा० 5 (114)/92-न्यायिक]

पी. सी. कणन, सक्षम प्राधिकारी

New Delhi, the 23rd April, 1992

S.O. 1250.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956, that application has been made to the said Authority under Rule 4 of the said Rules, by Shri D. L. Patil Advocate for appointment as a Notary to practise in Churchgate Fort area, Bombay (Maharashtra).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this Notice.

[No. 5(114)/92-Judl.]

P. C. KANAN, Competent Authority

नई दिल्ली, 23 अप्रैल, 1992

का.आ. 1251—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री अमर सिंह भन्धेरा ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे रावतसर में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से मेरे पास भेजा जाए।

[सं. फा० 5(47)/91-न्या.]

पी. सी. कणन, सक्षम प्राधिकारी

New Delhi, the 23rd April, 1992

S.O. 1251.—Notice is hereby given by the Competent Authority in pursuance of rule 6 of the Notaries Act, 1956, that application has been made to the said Authority, under rule 4 of the said Rules, by Shri Amar Singh Bhanbheru for appointment as a Notary to practise in Rawatsar.

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this Notice.

[No. F. 5(47)/91-Judl.]

P. C. KANNAN, Competent Authority

वित्त मंत्रालय

(आर्थिक कार्य विभाग)

नई दिल्ली, 29 अप्रैल 1992

का.भा. 1252 :- लोक ऋण नियम, 1946 के नियम 4 के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एनद्द्वारा, यह विनिर्दिष्ट करती है कि लोक ऋण अधिनियम, 1944 (1944 का 18) की धारा 2 के खण्ड (2) के उप-खण्ड (ख) के प्रयोजनों के लिए सरकारों प्रतिभूति का प्राव्य निम्नलिखित होगा, अर्थात् :-

“प्राव्य
भारत सरकार

राजकोषीय ऋणियाँ (रूपांतरण) विधेय प्रतिभूति, 1992

संख्या वित्त

भारत के राष्ट्रपति एनद्द्वारा भारतीय रिजर्व बैंक की मांग करने पर कए (कए) भरा करने का वचन देते हैं ।

2. ब्याज 4.60 प्रतिशत प्रतिवर्ष की दर से भरा किया जाएगा। 31 मार्च, 1992 से 30 जून, 1992 तक की अवधि का ब्याज 1 जुलाई, 1992 को देय है। उसके पश्चात् ब्याज छमाही आधार पर प्रत्येक वर्ष की पहली जुलाई और पहली जनवरी को भरा किया जाएगा। ब्याज का भरायगा इस नोट की तारीख से लेकर इस नोट के उन्मोचन की तारीख से ठीक पहले वाली तारीख तक के लिए की जाएगी।

3. यह नोट अपरक्राम्य है।

भारत के राष्ट्रपति के आदेश से
गवर्नर, भारतीय रिजर्व बैंक,
प्रबन्धक, भारतीय रिजर्व बैंक, बम्बई

[संख्या एफ 2(1)-डब्ल्यू एण्ड एम/92]

श्रीमती जानकी कठपालिया, अपर सचिव (बजट)

MINISTRY OF FINANCE

(Department of Economic Affairs)

New Delhi, the 29th April, 1992

S.O. 1252.—In exercise of the powers conferred by clause (b) of rule 4 of the Public Debt Rules, 1946, the Central Government hereby specifies that the following shall be the form of Government security for the purposes of sub-clause (b) of clause 2 of section 2 of the Public Debt Act, 1944 (18 of 1944), namely :—

“FORM

Government of India

TREASURY BILLS (CONVERSION) SPECIAL SECURITIES, 1992

No.

Dated the

The President of India hereby promises to pay to the Reserve Bank of India on demand, a sum of Rs. (Rupees).

2. Interest will be paid at a rate of 4.60 per cent per annum. Interest is payable on the 1st July, 1992 for the period from 31st March, 1992 to 30th June, 1992. Thereafter, interest will be paid half-yearly on the 1st July, and 1st January of each year. Interest will be paid from the date of this note to the date immediately preceding the date on which the note is discharged.

3. This note is non-negotiable.

By Order of the President of India,
Governor, Reserve Bank of India,

Manager, Reserve Bank of India, Bombay.

[No. F. 2(1) W&M/92]

SMT. JANAKI KATHPALIA, Addl. Secy. (Budget)

(वैकण प्रभाग)

आदेश

नई दिल्ली, 23 अप्रैल, 1992

का.भा. 1253 :- राष्ट्रीयकृत बैंक (प्रबंध और प्रकीर्ण उपबंध) स्कीम 1980 के खण्ड 8 के उपखण्ड (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एनद्द्वारा, न्यू बैंक ऑफ इंडिया के कार्यपालक निदेशक, श्री जे. सेठी का कार्यकाल उस तारीख से समाप्त करती है जिग तारीख की उन्हें यह नोटिस बामील करवाया जाता है और यह निदेश देती है कि उन्हें नोटिस की अवधि के बरतने तीन महीने की अवधि के वेतन और राष्ट्रीयकृत बैंक के बराबर राशि भरा का जाएगी। लेकिन, भत्ते की भरायगा उन शर्तों के अर्धान का जाएगी जिनके अन्तर्गत ऐसे भत्ते भरायगा प्राव्य हों।

[सं. एफ 9/14/92-बी. ओ.-1]

एन एन. मूकजी, संयुक्त सचिव

(Banking Division)

ORDER

New Delhi, the 23rd April, 1992

S.O. 1253.—In exercise of the powers conferred by sub-clause (2) of Clause 8 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1980, the Central Government hereby terminate the term of office of Shri J. Sethi, Executive Director of New Bank of India, with effect from the date of service of this notice on him and direct that he shall be paid a sum equivalent to the amount of his salary and admissible allowances for a period of three months in lieu of the period of notice. The payment of allowances will, however, be subject to the conditions in which such allowances are otherwise admissible.

[F. No. 9/14/92-BO.1]

N. N. MOOKERJEE, Jt. Secy.

नई दिल्ली, 23 अप्रैल, 1992

का.भा. 1254 :- भारतीय रिजर्व बैंक अधिनियम, 1934 (1934 का 2) की धारा 50 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एनद्द्वारा निम्नलिखित चार्टर्ड लेखाकारों की फर्मों का वर्ष 1991-92 के लिए भारतीय रिजर्व बैंक के लेखा परीक्षक नियुक्त करती है, अर्थात् :-

1. मेसर्स सोराब एस. इंजीनियर एण्ड कम्पनी

चार्टर्ड लेखाकार

इम्माईल बिल्डिंग,

381, डा. जी. नौरोजी रोड,

फोर्ट, बम्बई-400023

2. मेसर्स ब्रह्मा एण्ड कम्पनी,

चार्टर्ड लेखाकार,

आन्ध्रा इन्फोरेस बिल्डिंग,

155 थाम्बु वेर्टी स्ट्रीट, मद्रास

3. मेसर्स जे.एन. शर्मा एण्ड कम्पनी,

चार्टर्ड लेखाकार,

58/4, बीरहाना रोड,

पो. बावस, 389, कानपुर

4. मेसर्स एन. एम. शायजी एण्ड कम्पनी

चार्टर्ड लेखाकार,

यूनिवर्सल इन्शोरेंस बिल्डिंग,

फिरोजशाह मेहता रोड, बम्बई

5. मेसर्स गुहा नन्दी एण्ड कम्पनी,

चार्टर्ड लेखाकार,

2A, Ganesh Chandra Avenue,

कामर्स हाउस, 5वीं, मंजिल, 8 डी एण्ड ई,

कलकत्ता

6. मेसर्स गोयल गर्ग एण्ड कम्पनी,

चार्टर्ड लेखाकार,

ई-588, ग्रेटर कैलाश-II

नई दिल्ली।

शुद्धि पत्र

नई दिल्ली, 29 अप्रैल, 1992

का.प्र. 1255.—वित्त मंत्रालय, आर्थिक कार्य विभाग, बैंकिंग प्रभाग के दिनांक 3 अप्रैल, 1992 की समसंख्यक अधिसूचना में "सचिव आवास और शहरी विकास विभाग, आन्ध्र प्रदेश सरकार" के स्थान पर निम्नलिखित पढ़ा जाए :

"सचिव,

आवास विभाग,

आन्ध्र प्रदेश सरकार"

[सं. 7/2/88-बी ओ-1]

एम.एस. सीतारामन, प्रवर सचिव

CORRIGENDUM

New Delhi, the 29th April, 1992

S.O. 1255.—In Ministry of Finance, Department of Economic Affairs, Banking Division's Notification of even number dated April 3, 1992, the "Secretary, Department of Housing and Urban Development, Government of Andhra Pradesh" shall read as under :—

"Secretary,

Department of Housing,

Government of Andhra Pradesh."

[F. No. 7/2/88-BO.I]

M. S. SEETHARAMAN, Under Secy.

नई दिल्ली, 29 अप्रैल, 1992

का.प्र. 1256.—इण औद्योगिक कंपनियों (विशेष उपबंध) अधिनियम, 1985 (1986 का 1) की धारा 6 की उप धारा (2) के साथ पठित धारा 4 की उप धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एन.एम.एस. आवास विभाग, आन्ध्र प्रदेश सरकार के द्वारा (हिमाचल प्रदेश : 1959), को उनके कार्यालय सहाय करने की तारीख से 31 मार्च, 1997 तक की प्राप्ति के लिए औद्योगिक तथा वित्तीय पुनर्निर्माण बोर्ड के सदस्य के रूप में नियुक्त करती है।

[सं. 7/6/92-बी.ओ.-I]

एम.एस. सीतारामन, प्रवर सचिव

New Delhi, the 29th April, 1992

S.O. 1256.—In pursuance of the powers conferred by sub-section (2) of Section 4 read with sub-section (2) of Section 6 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986), the Central Government hereby appoints Shri M. M. S. Srivastava, IAS (Himachal Pradesh, 1959), as a Member of the Board for Industrial and Financial Reconstruction for the period from the date of his taking charge and upto 31st March, 1997.

[No. F. 1(6)/92/Accts.]

K. K. MANGAL, Under Secy.

[F. No. 7/6/92-BO.I]

M. S. SEETHARAMAN, Under Secy.

मानव संसाधन विकास मंत्रालय

(संस्कृति विभाग)

नई दिल्ली, 25 मार्च, 1992

का.प्र. 1257.—वित्त मंत्रालय (व्यय विभाग) के का.प्र.सं. 19(1)/आई.पी.86 दिनांक 24 जुलाई, 1990 के अनुसरण में, सरकार ने राष्ट्रीय पुस्तकालय, कलकत्ता के व्यावसायिक, अर्ध-व्यावसायिक और सहायक स्टाफ (लिपिकीय स्टाफ के अलावा) के संबंध में गलत विवरणानुसार संशोधन पदनाम और वेतन-खांचा अपनाया है। यह संशोधन 24 जुलाई, 1990 से लागू होगा।

संशोधित ढाँचे के अंतर्गत नियम एवं शर्तें जिले मंत्रालय के उपर्युक्त कार्यालय स्थापन के अनुसार होंगी।

[सं. फा. 10-1/92-पुस्त.]

धर्म पाल, अवर सचिव

राष्ट्रीय पुस्तकालय, कलकत्ता (श्रेणी 6 पुस्तकालय)

जिले मंत्रालय के दिनांक 24-7-90 के का.जा.सं. 19(1)/आई सी/S6 के अनुसार व्यावसायिक, अर्ध व्यावसायिक और गृहयक स्टाफ के वर्तमान और संशोधित ढाँचे को दर्शाने वाला विवरण।

क्र.सं.	वर्तमान पदनाम	पदों की संख्या	वर्तमान वेतनमान	संशोधित पदनाम	पदों की संख्या	संशोधित वेतनमान	टिप्पणियाँ
1	2	3	4	5	6	7	8
1	लेबलर	10	775-1025	पुस्तकालय परिचर	10	775-1025	
2.	(1) सॉफ्टर (2) प्रयोगशाला परिचर	46 } 3 }	800-1150	वरिष्ठ पुस्तकालय परिचर	49	800-1150	वर्तमान पदों में परस्पर वरिष्ठता के अनुक्षण के अनुसार संयुक्त संवर्ग में वरिष्ठतर, संबंधित पदों पर नियुक्ति की तारीख से गिनी जाएगी। जहाँ नियुक्ति की तिथि समान है, वहाँ वरिष्ठता आयु के आधार पर निर्धारित की जाएगी।
3.	(1) प्रयोगशाला सहायक (2) फोटो सहायक (3) पुनरुद्धार सहायक (4) कनिष्ठ संदर्भ सहायक (5) बाइंडर (जिल्दमाज) (6) मेंडर	2 3 4 78 25 20	975-1540 950-1500 950-1500 950-1400 825-1200 825-1200	पुस्तकालय लिपिक	132	950-1500	संयुक्त संवर्ग में वरिष्ठता दो स्तरों पर निर्धारित की जाएगी। प्रथमतः समान वेतनमान वाले पदों की एक सामान्य वरिष्ठता सूची उपरोक्त क्रम सं. 2 के सामने दर्शायी गई कार्य पद्धति के अनुसार तैयार की जाएगी। द्वितीय और अंतिम चरण में, उच्चतम वेतनमान वाले कर्मचारी प्रत्येक उच्चतम वेतनमान वाले कर्मचारियों से सामूहिक रूप से वरिष्ठ होंगे और यही क्रम निम्नतम वेतनमान तक लागू होगा।
4.	(1) तकनीकी सहायक (2) सहायक माइक्रो फोटोग्राफर (3) सहायक कैमिस्ट (4) फोरमैन (5) कनिष्ठ तकनीकी सहायक (6) वरिष्ठ प्रयोगशाला सहायक (7) प्रबंधन सहायक (8) मशीन ऑपरेटर	89 } 4 } 1 } 1 }	1400-2300	पुस्तकालय एवं सूचना सहायक	163	1400-2600	ऊपर क्रम सं. 3 में दर्शायी गई कार्य पद्धति के अनुसार संयुक्त वरिष्ठता निर्धारित की जाएगी।
5.	अधीक्षक (तकनीकी)	6	1640-2900	वरिष्ठ पुस्तकालय एवं सूचना सहायक	6	1640-2900	
6.	(1) सहायक पुस्तकालय (2) माइक्रो फोटो ग्राफर	40	2000-3500	सहायक पुस्तकालय एवं सूचना अधिकारी	42	2000-3500	ऊपर क्रम सं. 2 में दर्शायी गई कार्य पद्धति के अनुसार संयुक्त

1	2	3	4	5	6	7	8
(3) कैमिस्ट		1	2000-3500	सहायक पुस्तकालय एवं सूचना अधिकारी	42	2000-3500	वरिष्ठता निर्धारित की जाएगी।
7. उप-पुस्तकाध्यक्ष		5	3000-4500	पुस्तकालय एवं सूचना अधिकारी		3000-4500	
8. पुस्तकाध्यक्ष		2	4500-5700	प्रधान पुस्तकालय एवं सूचना अधिकारी	2	4500-5700	
9. निदेशक		1	5900-7300	निदेशक	1	7300-7600	

MINISTRY OF HUMAN RESOURCE DEVELOPMENT

(Department of Culture)

New Delhi, the 25th March, 1992

S.O. 1257.—In pursuance of Ministry of Finance (Department of Expenditure) O.M. No. 19(1)/IC/86 dated 24th July, 1990, the Government has adopted the revised designation and pay structure in respect of the professional,

semi-professional and supporting staff (other than Ministerial Staff) of the National Library, Calcutta as per the statement attached. The revision will take effect from 24th July, 1990.

The other terms and conditions for the revised structure are as per the Ministry of Finance O.M. referred to above.

[No. F. 10-1/92-Lib.]

DHARAM PAL, Under Secy.

NATIONAL LIBRARY, CALCUTTA (a category VI Library)

Statement showing the existing and the revised structure in respect of professional, semi-professional and supporting staff, as per M/Finance O.M. No. 19(1)/IC/86, dated 24-7-90.

S. No.	Existing Designation	No. of Posts	Existing Pay Scale	Revised designation	No. of posts	Revised Pay scale	Remarks
1	2	3	4	5	6	7	8
1. Labeller		10	775-1025	Library Attendant	10	775-1025	
2. (i) Sorter		46					
(ii) Laboratory Attendant		3	800-1150	Sr. Library Attendant	49	800-1150	Subject to the maintenance of inter se seniority in the existing posts, the seniority in the combined cadre will be reckoned according to the date of appointment to the respective posts. Where the date of appointment is identical, seniority will be determined on the basis of age.
3. (i) Laboratory Asstt.		2	975-1540				
(ii) Photo Asstt.		3	950-1500	Library Clerk	132	950-1500	The exercise in determining seniority in the combined cadre will be done in two stages. In the first instance, a common seniority list of those posts having the same scale of pay will be prepared as per the procedure outlined against Sl. No. 2 above. In the second and final step, the incumbents in the highest scale of pay will rank en bloc senior to those holding the next highest scale of pay and so on down to the lowest scale of pay.
(iii) Restoration Asstt.		4	950-1500				
(iv) Jr. Reference Asstt.		78	950-1400				
(v) Binder		25	825-1200				
(vi) Mender		20	825-1200				
4. (i) Technical Assistant		89					
(ii) Assistant Microphotographer		4	1400-2300	Library and Information Assistant			The combined seniority will be determined as per the procedure outlined against Sl. No. 3 above.
(iii) Asstt. Chemist		1					
(iv) Foreman		1					

1	2	3	4	5	6	7	8
(v) Jr. Technical Asstt.	63	1350-2200					
(vi) Sr. Laboratory Asstt.	1	1320-2040					
(vii) Display Asstt.	1	1200-2040					
(viii) Machine Operator	3	1200-1800					
5. Superintendent (Technical)	6	1640-2900	Senior Library & Information Asstt.		6	1640-2900	
6 (i) Asstt. Librarian	40						
(ii) Microphotographer	1	2000-3500	Assistant Library & Information Officer		42	2000-3500	The combined seniority will be determined as per the procedure outlined against Sl. No. 2 above.
(iii) Chemist	1						
7. Deputy Librarian	5	3000-4500	Library & Information Officer		5	3000-4500	
8. Librarian	2	4500-5700	Principal Library & Information Officer		2	4500-5700	
9. Director	1	5900-7300	Director		1	7300-7600	

ग्रामीण विकास मंत्रालय

(निष्पन्न एवं निरीक्षण निदेशालय)

जरीदाखत, 25 मार्च, 1992

का.भा. 1258.—साधारण श्रेणीकरण तथा चिन्हांकन नियमावली 1988 के अधीन मुक्तको प्रदत्त शक्तियों का प्रयोग करते हुए तथा इस विषय पर विनोद 25-4-75 के कार्यालय आदेश संख्या 7(15)/73-सामान्य बी-3 आंशिक संशोधन करते हुए, मैं जो.पी. बिहारी, कृषि विपणन सलाहकार, भारत सरकार, एस्ड्वारा, स्तम्भ (1) में उल्लिखित नियमों के अनुसार एवं जैसा कि स्तम्भ (2) में शक्तियों का प्रयोग के अधिकार विनिर्दिष्ट हैं, स्तम्भ (3) में विनिर्दिष्ट राज्य सरकार के अधिकारियों को महाराष्ट्र राज्य में बरेलू मंडी के लिए कृषि उपज (श्रेणीकरण तथा चिन्हांकन), अधिनियम, 1937 (1937 का 1) के अधीन निर्धारित श्रेणीकरण तथा चिन्हांकन नियमों एवं श्रेणीकरण शक्तियों के अनुसार कृषि और अन्य उत्पादों के श्रेणीकरण तथा चिन्हांकन के बारे में अधिकार देता हूँ।

साधारण श्रेणीकरण चिन्हांकन नियमावली,
1988 के नियम का संदर्भ

प्रत्येक शक्तियों

राज्य के अधिकारी का पदनाम

1	2	3
नियम 3(4)	बरेलू श्रेणीकरण के लिए प्राधिकरण प्रमाण पत्र प्रदान करने हेतु प्राप्ति करना।	जिला उप रजिस्ट्रार/संयुक्त रजिस्ट्रार सहकारी समितियों अपने अपने क्षेत्राधिकार में
नियम 3(5)	आवेदक को कक्षाकक्षता के सत्यापन तथा परिसरों, प्रयोगशाला, संसाधन एकाद्यों के निरीक्षण की व्यवस्था करना तथा बरेलू श्रेणीकरण के लिए प्राधिकरण प्रमाण पत्र प्रदान करने हेतु सिफारिश करना।	-वही-
नियम 4	विकेन्द्रीकरण श्रेणीकरण के बारे में प्राधिकरण प्रमाण-पत्र का नवीनीकरण करना।	-वही-
नियम 8(2)	एकमात्र श्रेणीकरण के लिए प्राथमिक बाणिज्यिक प्रयोगशाला के अनुमानित विषय निरूपण तथा नग्न संयुक्त की सिफारिश करना।	जिला उप रजिस्ट्रार/संयुक्त रजिस्ट्रार सहकारी समितियों।
नियम 12	विकेन्द्रीकरण श्रेणीकरण के बारे में श्रेणी अधिकृत चिन्हों को जारी करना अथवा प्रयोग को रोकना।	जिला उप रजिस्ट्रार/संयुक्त रजिस्ट्रार सहकारी समितियों अपने अपने क्षेत्राधिकार में।
नियम 14	किसी भी अनुसूचित वस्तु के बारे में सूचना, विवरणों प्राप्त करना।	जिला उप रजिस्ट्रार सहकारी समितियों अपने अपने क्षेत्राधिकार में।
नियम 3(8)(क)	प्राधिकृत श्रेणीकरण परिसरों का निरीक्षण करना तथा यह पता लगाना कि विकेन्द्रीकरण वस्तुओं का श्रेणीकरण तथा चिन्हांकन सही रूप से किया गया है।	जिला उप रजिस्ट्रार/संयुक्त रजिस्ट्रार सहकारी समितियों, अपने अपने क्षेत्राधिकार में।
नियम 3(8)(ग)	विकेन्द्रीकरण श्रेणीकरण के प्राधिकृत परिसरों द्वारा रखे गए चिह्नों का अर्थ करना।	जिला उप रजिस्ट्रार सहकारी समितियों अपने अपने क्षेत्राधिकार में।

1	2	3
नियम 3(8) (घ)	श्रेणीकरण अभिधान चिन्ह लगे हुए किसी पैकेज को खोलना तथा निरीक्षण करना तथा किसी भी श्रेणीकृत उपज के नमूने लेना परन्तु सभी नमूनों के लिए संदाय किया जायगा।	-वही-
नियम 3(8) (ङ)	विकेन्द्रीकरण श्रेणीकरण के अन्धीन आने वाली किसी भी श्रेणीकृत वस्तु का श्रेणी अभिधान चिन्ह रद्द करना या उसे हटाना यदि वह बिहित श्रेणी विनिर्देशनों के अनुरूप नहीं है।	-वही-

[संख्या ब्यू. 11011/6/91-क्यू. सी-3]

ओ.पी. बिहारी, कृषि विपणन सलाहकार

(MINISTRY OF RURAL DEVELOPMENT)

(Directorate of Marketing & Inspection)

Faridabad, 25th March, 1992

S.O. 1258.—In exercise of the powers conferred on me under the General Grading and Marking Rules, 1988 and in partial modification of this office order No. 7(15)/73-Gen. D. III dated 25-4-75 on the subject, L.O.P. Behari, Agricultural Marketing Adviser to the Government of India hereby delegate in pursuance of the rules cited in Column (1), authority to exercise the powers, as specified in column (2), to the offices of the State Government specified in column (3), in respect of grading and marking of agricultural and other produce in accordance with the grade designations and the Grading and Marking Rules prescribed under the Agricultural Produce (Grading and Marking) Act, 1937 (I of 1937) for domestic market in the State of MAHARASHTRA.

Reference rule of the GGM Rules, 1988	Powers delegated	Designation of the State Officer
1	2	3
Rule 3(4)	To receive the application for grant of Certificate of Authorisation for domestic grading.	District Deputy Registrar/Divisional Joint Registrar Co-op Societies in their respective jurisdiction.
Rule 3(5)	To arrange for verification of bonafides of the applicant and inspection of the premises Laboratory, processing units and to recommend grant of C.A. for domestic grading.	-do-
Rule 4	To renew the certificate of Authorisation in respect of de-centralised grading.	-do-
Rule 8(2)	To recommend approval of private commercial laboratory for Agmark grading.	Director of Marketing or Divisional Joint Registrar Co-op Societies.
Rule 12	To withhold issue or use of grade designation marks in respect of de-centralised grading.	District Deputy Registrar/Divisional Joint Registrar Co-op Societies in their respective jurisdiction.
Rule 14	To obtain information report return in respect of any of the Scheduled articles.	District Deputy Registrar Co-op Societies in their respective jurisdictions.
Rule 3(8)(b)	To inspect the authorised grading premises and to ascertain that trading and marking of de-centralised commodities is correctly performed.	District Deputy Registrar/Divisional Joint Registrar, Co-op Societies in their respective jurisdictions.
Rule 3(8)(c)	To examine the record maintained by the authorised packers of de-centralised grading.	District Deputy Registrar Co-op Societies in the respective jurisdictions.
Rule 3(8)(d)	To open and inspect any package bearing grade designation mark and to take samples of any graded produce provided all samples shall be paid for.	-do-
Rule 3(8) (e)	To cancel or to remove the grade designation mark from any graded article covered under decentralised grading if found not conforming to the prescribed grade specifications.	District Dy. Registrar Co-op Societies in the respective jurisdictions.

[No. Q-11011/6/91-QC. III]

O.P. BEHARI, Agril. Marketing Adviser

फरीदाबाद, 13 अप्रैल, 1992

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का.आ. 1259-मै. ओ पी. बिहारी, कृषि विपणन सलाहकार, भारत सरकार सामान्य श्रेणीकरण एवं चिह्निकन नियम, 1988 के अधिनियम शक्तियों का प्रयोग करते हुए एतद्वारा विपणन एवं निरीक्षण निदेशालय के उप कार्यालयों के प्रभारी अधिकारियों को जैसा कि इसमें बाव में उल्लेख किया गया है। प्रत्येक के सामने निर्धारित किए गए अधिकार क्षेत्र में कृषि उपज (श्रेणीकरण एवं चिह्निकन) अधिनियम, 1937 (1937 का 1) के उपबंधों के तहत बनाए गए नियमों के अनुसार कृषि एवं संबद्ध उत्पादों के श्रेणीकरण एवं चिह्निकन के संबंध में निम्नलिखित शक्तियों का प्रयोग करने के लिए प्राधिकृत करता है:—

- (i) नियम 3 अधिनियम के तहत बनाए गए नियमों के अनुसार किसी वस्तु के श्रेणीकरण एवं चिह्निकन के लिए प्राधिकार प्रमाणपत्र की रद्दकृति प्रदान करना।
- (ii) नियम 4 नियमित श्रेणीकरण तथा केंद्रीकृत श्रेणीकरण के संबंध में प्राधिकार प्रमाणपत्र का नवीकरण।
- (iii) नियम 5 प्राधिकृत पैकर के नाम, उतास या पते में परिवर्तनों तथा प्राधिकृत प्रमाण पत्र में प्राधिकृत परिमर्तों के परिवर्तन का रिकार्ड करना।
- (iv) नियम 8 अधिनियम के उपबंधों के तहत पैकर द्वारा किया वस्तु के श्रेणीकरण एवं चिह्निकन के लिए तय किए गए प्रमाणपत्र का नवीकरण करना।
- (v) नियम 9 पैकर द्वारा श्रेणीकरण एवं चिह्निकन प्रमाणपत्रों के लिए नियुक्त किए गए रसायन का अनुमोदन करना।
- (vi) नियम 11 श्रेणीकृत वस्तु को पैकिंग के तरीके में छूट/संशोधन की अनुमति देना तथा श्रेणीकृत वस्तुओं पर लगाए जाने वाले निजी चिह्नों, ट्रेड ब्रांड लेबल का अनुमोदन करना।
- (vii) नियम 14 प्राधिकृत पैकरो में अनुसूचित वस्तुओं में से किसी भी वस्तु के संबंध में भूचला, रिपोर्ट या रिटर्न मांगना।

क्र.सं. प्राधिकृत अधिकारियों के पदनाम

अधिकार-क्षेत्र

- | | |
|-----------------------------------|---------------------------------------|
| 1. वरिष्ठ ट विपणन अधिकारी प्रभारी | |
| उप कार्यालय | जम्मू (जम्मू और कश्मीर) |
| 2. -वही- | अमृतसर (पंजाब) |
| 3. -वही- | कानान (हरियाणा) |
| 4. -वही- | चण्डीगढ़ (संघ शासित क्षेत्र चण्डीगढ़) |
| | और हिमाचल प्रदेश। |
| 5. -वही- | जयपुर (राजस्थान) |

क्षेत्रीय कार्यालय प्रमुख अपने संबंधित क्षेत्रों में उनको प्रत्यावर्तित शक्तियों का प्रयोग लक्ष्य करते रहेंगे।

[म. कृ-11011/1/90-गुण निबंध III]
ओ.पी. बिहारी, कृषि विपणन सलाहकार

Faridabad, the 13th April, 1992

S.O. 1259.—I, O. P. Behara, Agricultural Marketing Adviser to the Government of India, in exercise of the powers conferred on me under the General Grading and Marking Rules, 1988, hereby authorise the officers incharge of the sub-offices of the Directorate of Marketing and Inspection, as specified hereinafter, to exercise, in the jurisdiction as set out against each, the following powers in regard to grading and marking of agricultural and allied products in accordance with the rules made under the provisions of the Agricultural Produce (Grading and Marking) Act, 1937 (1 of 1937).—

- (i) Rule 3—To grant the certificate of Authorisation for grading and marking of an article in accordance with the provisions of the rules made under the Act;
- (ii) Rule 4—To renew the Certificate of Authorisation in respect of export, grading and centralised grading;
- (iii) Rule 5—To record changes in the name, style or address of the authorised packer and change of authorised premises in the Certificate of Authorisation;
- (iv) Rule 8—To approve the Laboratory set up by the packer for grading and marking of an article under provisions of the Act;
- (v) Rule 9—To approve the chemist appointed by the packer for manning the grading laboratory;
- (vi) Rule 11—To allow relaxation/modification in the mode of packing of graded article and to approve the private marks, trade brand label to be affixed on the graded article;
- (vii) Rule 14—To call for information, report or return in respect of any of the scheduled articles from the authorised packers.

Sl.No.	Designation of the Officers authorised	Jurisdiction	
1	2	3	4
1.	Senior Marketing Officer, Incharge, Sub-office	Jammu	Jammu and Kashmir
2.	-do-	Amritsar	Punjab
3.	-do-	Karnal	Haryana
4.	-do-	Chandigarh	U.T. of Chandigarh and Himachal Pradesh
5.	-do-	Jaipur	Rajasthan
6.	-do-	Kanpur	Uttar Pradesh
7.	-do-	Bhopal	Madhya Pradesh

1	2	3	
8.	-do-	Rajkot	Gujarat
9.	-do-	Wellington Island	Kerala
		Cochin	
10.	-do-	Bangalore	Karnataka
11.	-do-	Patna	Bihar
12.	-do-	Guwahati	Assam, Meghalaya, Nagaland, Mizoram, Arunachal Pradesh, Manipur and Tripura.

The Regional Heads shall continue to exercise the powers delegated to them in their respective regions concurrently.

[N]. Q-11011/1/90-QC-III]

O.P. BEHARI, Agricultural Marketing Adviser

फरीदाबाद, 23 अप्रैल, 1992

का.प्र. 1,60:- माध्याम श्रेणीकरण तथा चिन्हकृत नियमावली 1988 के अधीन मूल्यो प्रदत्त शक्तियों का प्रयोग करने हुए तथा हम विषय पर दिनांक 25-4-75 के कार्यालय आदेश संख्या 7(15)/73-सामान्य सी-3 में प्राथमिक संशोधन करने हुए, मैं प्रो.पी. बिहारी, कृषि विपणन सलाहकार, भारत सरकार, एनडब्ल्यू, स्तम्भ (1) में उल्लिखित नियमों के अनुसरण में जैसा कि स्तम्भ (2) में शक्तियों के प्रयोग के अधिकार विनिर्दिष्ट हैं, स्तम्भ (3) में विनिर्दिष्ट राज्य सरकार के अधिकारियों को केन्द्र शासित प्रदेश दिल्ली में घरेलू मंडी के लिए कृषि उपज (श्रेणीकरण तथा चिन्हकृत) अधिनियम, 1937 (1937 का 1) के अधीन निर्धारित श्रेणीकरण तथा चिन्हकृत नियमों एवं श्रेणीकरण अधिधानों के अनुसार कृषि और अन्य उत्पादों के श्रेणीकरण तथा चिन्हकृत के बारे में अधिकार देता हूँ।

माध्याम श्रेणीकरण चिन्हकृत नियमावली, 1988 के नियम का संघर्ष	प्रत्यायुक्त शक्तियाँ	राज्य के अधिकारी का पदनाम
1	2	3
नियम 3(4)	घरेलू श्रेणीकरण के लिए प्राधिकरण प्रमाण-पत्र प्रदान करने हेतु आवेदन विपणन अधिकारी, दिल्ली प्रशासन दिल्ली प्राप्त करना।	
नियम 3(5)	आवेदक की सहायता के स्थापन तथा परिसरों, प्रयोगशाला, सहायक एककों के निरीक्षण की व्यवस्था करना तथा घरेलू श्रेणीकरण के लिए प्राधिकरण प्रमाणपत्र प्रदान करने हेतु सिफारिश करना।	-वही-
नियम 4	विकेन्द्रीकरण श्रेणीकरण के बारे में प्राधिकरण प्रमाण-पत्र का तबीयतीकरण करना।	-वही-
नियम 8(2)	एकमात्र श्रेणीकरण के लिए प्रादेशिक आणविक प्रयोगशाला के अनुमोदन कृषि विपणन निदेशक/संयुक्त निदेशक की सिफारिश करना।	दिल्ली।
नियम 12	विकेन्द्रीकरण श्रेणीकरण के बारे में श्रेणी अधिधान चिन्हों को जारी करना अथवा प्रयोग को रोकना।	-वही-
नियम 14	किसी भी अनुसूचित वस्तु के बारे में सूचना, रिपोर्ट, बिबरण प्रस्तुत करना विपणन अधिकारी/कृषि विपणन संयुक्त निदेशक, दिल्ली।	
नियम 3(8)(क)	प्राधिकृत श्रेणीकरण परिसरों का निरीक्षण करना तथा यह पता लगाना कि कृषि विपणन निदेशक/संयुक्त निदेशक, विकेन्द्रीकरण वस्तुओं का श्रेणीकरण तथा चिन्हकृत सही रूप में किया दिखनी। गया है।	
नियम 3(8)(ग)	विकेन्द्रीकरण श्रेणीकरण के प्राधिकृत पैकरो द्वारा रखे गए रिकार्ड की जांच विपणन अधिकारी/कृषि विपणन संयुक्त निदेशक, दिल्ली।	
नियम 3(8)(घ)	श्रेणी अधिधान चिन्ह लगे हुए किसी पैकेज को खोलना तथा निरीक्षण करना कृषि विपणन निदेशक/संयुक्त निदेशक, तथा किसी भी श्रेणीकृत उपज के नमूने सेना परम्पु सभी नमूनों के दिखनी। लिए संवाद किया जाहसा।	
नियम 3(8)(ङ)	विकेन्द्रीकरण श्रेणीकरण के अधीन घाने वाले किसी भी श्रेणीकृत वस्तु का कृषि विपणन निदेशक/संयुक्त निदेशक, दिल्ली श्रेणी अधिधान चिन्ह रह करमा या उसे हटाना यदि वह बिहित श्रेणी विनिर्देशनों के अनुकूल नहीं है।	

[सं. कृ-11011/8/91-कृ सी -3]

प्रो.पी. बिहारी, कृषि विपणन सलाहकार

Faridabad, the 23rd April, 1992

S. O. 1161.—In exercise of the powers conferred on me under the General Grading and Marking Rules, 1988 and in partial modification of this office order No. 7(15)/73-Gen. D.III dated 25-4-75 on the subject, I, O.P. Behari, Agricultural Marketing Adviser to the Government of India hereby delegate, in pursuance of the rules cited in column (1), authority to exercise the powers, as specified in column (2), to the officers of the State Government specified in column (3), in respect of grading and marking of agricultural and other produce in accordance with the grade designations and the Grading and Marking Rules prescribed under the Agricultural Produce (Grading and Marking) Act, 1937 (I of 1937) for domestic market in the Union Territory of Delhi.

Reference rule of the GGM Rules 1988	Powers delegated	Designation of the State Officer
(1)	(2)	(3)
Rule 3(4)	To receive the application for grant of Certificate of Authorisation for domestic grading;	Marketing Officer, Delhi Administration, Delhi.
Rule 3(5)	To arrange for verification of bonafides of the applicant and inspection of the premises Laboratory processing units and to recommend grant of C.A. for domestic grading;	-do-
Rule 4	To renew the certificate of Authorisation in respect of de-centralised grading;	-do-
Rule 8(2)	To recommend approval of private commercial laboratory for Agmark grading;	Director/Jt. Director, Agricultural Marketing, Delhi.
Rule 12	To withhold issue or use of grade designation marks in respect of de-centralised grading;	do-
Rule 14	To obtain information, report return in respect of any of the Scheduled articles;	Marketing Officer/Jt. Director, Agricultural Marketing, Delhi.
Rule 3(8)(b)	To inspect the authorised grading premises and to ascertain the grading and marking of de-centralised commodities is correctly performed-	Director/Jt. Director Agricultural Marketing, Delhi.
Rule 3(8)(c)	To examine the record maintained by the authorised packers of de-centralised grading;	Marketing Officer/Jt. Director, Agricultural Marketing, Delhi.
Rule 3(8)(d)	To open and inspect any package bearing grade designation mark and to take samples of any graded produce provided all samples shall be paid for;	Director/Jt. Director, Agricultural Marketing, Delhi.
Rule 3(8)(e)	To cancel or to remove the grade designation mark from any graded article covered under de-centralised grading if found not conforming to the prescribed grade specifications.	Director/Jt. Director Agricultural Marketing, Delhi.

[No. Q-11011/6/91/QC-III]

O.P. BEHARI, Agricultural Marketing Adviser

नई दिल्ली, 20 अप्रैल, 1992

New Delhi, the 20th April, 1992

का.पा. 1261.—केन्द्रीय सरकार, भारतीय आयुर्विज्ञान परिषद अधिनियम, 1956 (1956 का 102) की धारा 11 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारतीय आयुर्विज्ञान परिषद से परामर्श करने के पश्चात् उक्त अधिनियम की पहली अनुसूची का निम्नलिखित और संशोधन करती है, अर्थात् :—

उक्त अनुसूची में, "अलीगढ़ मुस्लिम विश्वविद्यालय" शीर्षक के अधीन विद्यमान प्रविष्टियों के पश्चात् निम्नलिखित प्रविष्टियाँ जोड़ी जाएँगी, अर्थात् :—

"डॉक्टर आरक मेडिसिन"

(कम्युनिटी मेडिसिन)

एम. डी. (कम्यु. मेडि)

(जे. एन. आयुर्विज्ञान महाविद्यालय, अलीगढ़)

(21 मार्च, 1987 को या इसके पश्चात् प्रदान की गई)

[संख्या बी-11015/8/92-एम. ई. (यूजी)]

आर. विजयकुमारी, हेल्थ अधिकारी

S.O.1261.—In exercise of the powers conferred by sub-section (2) of section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, namely :—

In the said Schedule, under the heading "Aligarh Muslim University", after the entries, the following entries shall be added, namely :—

"Doctor of Medicine"
(Community Medicine)

M.D. (Comm. Med.)

This qualification shall be recognised medical qualification when granted by the Aligarh Muslim University on or after 31st March, 1987 in respect of students being trained at J.N. Medical College, Aligarh.

[No. V-11015/8/92-ME(UG)]

R. VIJAYAKUMARI, Desk Officer

नई दिल्ली, 27 अप्रैल, 1992

का.प्र. 1262.--केन्द्रीय सरकार, होम्योपैथी केन्द्रीय परिषद अधिनियम, 1973 (1973 का 59) की धारा 3 के उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के स्वास्थ्य और परिवार नियोजन मंत्रालय की अधिसूचना सं. का.प्र. 492(अ), तारीख 6 अगस्त, 1974 में निम्नलिखित संशोधन करती है, अर्थात् :--

उक्त अधिसूचना में, "धारा 3 की उपधारा (1) के खंड (ग) के अधीन नामनिर्दिष्ट" शीर्षक के नीचे क्रम सं. 16 और उसमें संबंधित प्रविष्टियों के पश्चात् निम्नलिखित क्रम संख्या और प्रविष्टियाँ जोड़ी जाएगी, अर्थात् :--

"17. डा. वी.के. गुप्ता,
प्रधानाचार्य,

नेहरू होम्योपैथिक मेडिकल कॉलेज एवं अस्पताल,
वी ब्लॉक, डिफेंस कॉलोनी,
नई दिल्ली-110022

18. डा. टी.एम. धनंजयन,
निदेशक,

आगस्त नर्सिंग होम एंड होम्योपैथिक रिसर्च सेंटर,
कलामसरी, कोची-682022 (केरल)"

[सं. वी-26018/15/87-होम्यो (सी सी एच)
आर.के. मुखी, निदेशक (स. चि. प.)

New Delhi, the 27th April, 1992

S.O. 1262.—In exercise of the powers conferred by sub-section (1) of section 3 of the Homoeopathy Central Council Act, 1973 (59 of 1973), the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Health and Family Planning, No. S.O. 482(E) dated the 6th August, 1974, namely :—

In the said notification under the heading "Nominated under clause (c) of sub-section (1) of section 3" after serial number 16 and the entries relating thereto, the following serial numbers and entries shall be added, namely :—

"17. Dr. V. K. Gupta,
Principal,
Nehru Homoeopathic Medical
College & Hospital,

B Block, Defence Colony,
New Delhi-110023.

18. Dr. T. M. Dhananjayan,
Director,
August Nursing Home and
Homoeopathic Research Centre,
Kalamassery, Kochi-682022 (Kerala).

[No. V. 26018/15/87-Homoeo (CCH)
R.K. MUKHI, Director (ISM)

Note :—The Principal Notification was published vide S.O. 482(E) dated 6-8-1974, and subsequently amended by S.O. 818(E) dated 22nd October, 1990 and S.O. 75(E) dated 6th February, 1991.

नई दिल्ली, 27 अप्रैल, 1992

का.प्र. 1263.--केन्द्रीय सरकार, होम्योपैथी केन्द्रीय परिषद अधिनियम, 1973 (1973 का 59) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के स्वास्थ्य और परिवार नियोजन मंत्रालय (स्वास्थ्य विभाग) की अधिसूचना सं. का.प्र. 432(अ) तारीख 6 अगस्त, 1974 का संशोधन करती है, अर्थात् :--

उक्त अधिसूचना की सारणी में, धारा 3 की उपधारा (1) के खंड (ख) के अधीन निम्नलिखित शीर्षक के अधीन क्रम सं. 18 और उसके

संबंधित प्रविष्टियों के पश्चात् निम्नलिखित का संख्या और प्रविष्टियाँ अंतर्स्थापित की जाएगी, अर्थात् :--

(1)

(2)

"19. डा. (श्रीमती) सिन्धु के. मन्नार, कर्नाटक विश्वविद्यालय
प्रिंसिपल,
कर्नाटक होम्योपैथिकल कॉलेज हुबली,
कर्नाटक राज्य।

[संख्या वी. 26017/15/89-होम्यो (सीसीएच)]

आर.के. मुखी, निदेशक (स. चि. प.)

New Delhi, the 27th April, 1992

S.O. 1263.—In exercise of the powers conferred by sub-section (1) of section 3 of the Homoeopathy Central Council Act 1973 (59 of 1973), the Central Government hereby makes the following amendments in the notification of the Government of India in the Ministry of Health and Family Planning (Department of Health) S.O. 482 (E), dated the 6th August, 1974, namely :—

In the Table to the said notification, under the heading "Elected under clause (b) of sub-section (1) of Section 3", after serial number 18 and the entries relating thereto, the following serial number and entries shall be inserted, namely :—

(1)

(2)

"19. Dr. (Smt.) Sindhu K. Mannar, Karnatak University
Principal,
Karnatak Homoeo Medical
College, Hubli,
Karnataka State

[No. V-26017/15/89-Homoeo (CCH)]
R.K. MUKHI, Director (ISM)

श्रम मंत्रालय

नई दिल्ली, 22 अप्रैल, 1992

का.प्र. 1264.--औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बिलासपुर रायपुर औद्योगिक शांति बेंक के प्रबंधन के संबंध में निविष्ट औद्योगिक दिवादा में उनके कर्मचारियों के बीच, अनुबंध में निविष्ट औद्योगिक दिवादा में केन्द्रीय सरकार औद्योगिक अधिकरण व श्रम मंत्रालय, जबलपुर के पंखपट्ट की प्रकाशित करती है, जो केन्द्रीय सरकार की 20-4-92 को प्राप्त हुआ था।

(संख्या एल-12012/230/86-डी-II (ए.))

गुभाव चन्द शर्मा, डेस्क अधिकारी

MINISTRY OF LABOUR

New Delhi, the 22nd April, 1992

S.O. 1264.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bilaspur-Raipur Kshetriya Gramin Bank and their workmen, which was received by the Central Government on 20-4-1992.

[No. L-12012/230/86-D.II(A)]

S. C. SHARMA, Desk Officer

ANNEXURE

BEFORE HON'BLE SHRI V. N. SHUKLA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL-TRIBUNAL-CUM-LABOUR COURT,

JABALPUR (M.P.)

Case No. CGIT/LC(R)(137)/1987

PARTIES:

Employers in relation to the management of Bilaspur-
Raipur Kshetriya Gramin Bank, Aprid Village,
Apid, District Bilaspur (M.P.) and their workman
Shri Shantilal Yadav S/o Shri Teras Ram Yadav,
Village Aprid, District Bilaspur (M.P.)

APPEARANCES:

For workman—Shri R. C. Srivastava, Advocate.

For management—Shri G. C. Jain, Advocate.

INDUSTRY : Banking

DISTRICT : Bilaspur (M.P.)

AWARD

Dated : April 3rd, 1992

This is a reference made by the Central Government,
Ministry of Labour, vide its Notification No. L-12012/230/
86-D.II(A) dated 10th August, 1987, for adjudication of the
following dispute :—

SCHEDULE

"Whether the action of the management of Kshetriya
Gramin Bank, Branch Aprid, Dist. Bilaspur is
justified in discharging from service of the work-
man Shri Shantilal Yadav from 2-11-1985? If not,
to what relief the concerned workman is entitled?"

2. This is a case of unfortunate workman who had ex-
pressed that he is unable to appear before this Tribunal for
want of funds. He had, however, sent statement of claim
and at times his Counsel appeared.

3. Facts leading to this case are that the workman con-
cerned was working with the management as daily rated
temporary workman. He is said to have worked as Sweeper-
cum-Waterman. His services are said to have been termi-
nated with effect from 2-11-1985.

4. The workman says that he continuously worked with
the management from 15-6-1983 to 2-10-1985. He was
thereafter asked not to attend his duties and accordingly
his services were terminated. He has neither been paid
wages from 2-11-1985 to 15-11-1985 nor he gave any resigna-
tion. He has continuously worked for more than one and
a half years. Instead of regularising him, his services have
been terminated without any rhyme or reason.

5. The management says that the workman worked from
55-12-1983 to 2-11-1985, from which date he absconded and
subsequently he tendered his resignation from 15-11-1985.
His services accordingly came to an end. He was gain-
fully employed. It is not an industrial dispute. Reference
is liable to be rejected.

6. The case was fixed for evidence of parties for 2-4-1992
on which date the workman did not appear nor did he
adduce any evidence. Management also stated that it does
not want to adduce any evidence. Thus no evidence has
been led by either party. The matter has, therefore, to be
decided as to on whom burden of proof lies.

7. From the order of reference it can be gathered that
the burden lay on the management to prove that the order
of his termination of service was justified. But since the
references are cryptic, much weight cannot be given to the
formation of the order of reference.

8. Even otherwise it was for the management to prove
that the workman has deserted and had submitted resigna-
tion. Management has not even pleaded that the resigna-
tion of the workman was accepted. The management has
also failed to prove that the workman was gainfully emp-

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loyed by Madhya Bharat Papers Ltd, Champa, District
Bilaspur.

9. It appears from the admitted fact that the workman
had worked for more than 240 days continuous service. It
also appears that the provisions of Sec. 25F of the I.D. Act
have not been complied with, but since this point has not
been raised I refrain myself to adjudicate on this point.

10. The only option that is left is to order reinstatement
of the workman concerned, but in the circumstances, with-
out any back wages. The workman shall report for duty
within one month from the date of publication of the award
or earlier as the case may be and the management shall
take him back in service from the date he reports. He will
not be entitled to any wages for the period for which he
has not worked, but his services shall be considered for
other purposes.

11. Reference is accordingly answered as follows :—

The action of the management of Kshetriya Gramin Bank,
Branch Aprid, District Bilaspur is unjustified in dis-
charging from service of the workman, Shri Shantilal Yadav
from 2-11-1985. He is entitled to be reinstated but with-
out any back wages, but his services shall be considered for
all other purposes. No order as to costs.

V. N. SHUKLA, Presiding Officer

नई दिल्ली, 23 अप्रैल 1992

का.भा. 1265 : — औद्योगिक विवाद अधिनियम, 1947 (1947
का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक आफ
इन्दोर के प्रबन्धन के संबंध में नियोजकों और उनके कर्मचारों के बीच,
अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधि-
करण, व श्रम न्यायालय कानपुर के पंचपद को प्रकाशित करती है, जो
केन्द्रीय सरकार को 23-4-92 को प्राप्त हुआ था।

[संख्या एन-12012/219/86-डी-II (ग)]

सुभाष चन्द्र शर्मा, डेस्क अधिकारी

New Delhi, the 23rd Apr'l, 1992

S.O. 1265.—In pursuance of Section 17 of the Industrial
Disputes Act, 1947 (14 of 1947), the Central Government
hereby publishes the Award of the Central Government In-
dustrial Tribunal-cum-Labour-Court, Kanpur as shown in
the Annexure, in the industrial dispute between the emp-
loyers in relation to the management of State Bank of Indore
and their workmen which was received by the Central Gov-
ernment on 23-4-92.

[No. L-12012/219/86-D.II(A)]

S. C. SHARMA, Desk Officer

ANNEXURE

BEFORE SRI ARIAN DEV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT PANDU NAGAR, KANPUR

Industrial Dispute No. 175 of 1987

In the matter of dispute between :

The Assistant General Secretary, U.P. Bank's Employees'
Union 36/1, Kailash Mandir, Kanpur.

AND

The Assistant General Manager, State Bank of Indore,
5, Yashwant Niwas Road, P.B. No. 214, Indore-
452003.

AWARD

1. The Central Government, Ministry of Labour, vide its
notification No. L-12012/219/86-D.II(A) dated 26-12-87, has
referred the following dispute for adjudication to this
Tribunal :

Whether the action of the management of State Bank
of Indore, Kanpur in terminating the services of
Sri Kamal Kishore Mishra w.e.f 26-7-83 and not
considering him for further employment under sec-

tion 25H of the I.D. Act is justified? If not to what relief the concerned workman is entitled?

2. The industrial dispute on behalf of the workman has been raised by U.P. Bank Employees Union (hereinafter referred to as Union).

3. The case of the union in short is that in order to avoid appointment of permanent hands, the Bank started a practice of appointing temporary employees for doing the regular/permanent nature, to deprive such workman from becoming regular employees of the Bank and in continuance of such practice appointments were made by the management bank not exceeding 75 days under the head office instructions so that such appointees may not be allowed the benefits of Bank Award/Settlement. The Union further alleges that the workman was appointed by the bank as a clerk/typist on 18-5-83 at Bank's Chandni Chowk Branch, Delhi for doing the work of a regular clerical nature and his services were terminated without any reason of justification after 26-7-83 when he had put in 70 days of service in the bank. The union pleads that there was no justification of the retrenchment/termination of the services of the workman. The workman was not the junior most when his services were terminated and junior hands were allowed to continue by the management. The Union further alleges that after the termination of the services of the workman fresh hands were employed by the bank without affording the workman any opportunity of reemployment in service. The management bank has thus violated the Articles 14.16 and 21 of the Constitution of India secs. 25G, 25H, 25I, 2(fa) of the I.D. Act, 1947, Rules 77 and 78 of the I.D. (Central) Rules, 1957 and paras 493, 495, 507, 516, 522 and 524 of the Sastry Award and paras 20.7 and 20.8 of the 1st Bipartite Settlement. The Union has, therefore, prayed for the reinstatement in service, of the workman, with full back wages and all consequential benefits.

4. The case is contested by the management. The management deny that the workman's appointment in the bank was made in accordance with any policy. The workman was never appointed for doing the work of a regular clerical nature. The bank further alleges that the workman was initially appointed at Chandni Chowk, (Delhi) Branch on 18-5-83. His appointment was purely in a leave vacancy which was caused on account regular employee. The said appointment of the workman was further extended for specified period between 17-6-83 to 1-7-83 and 2-7-83 to 26-7-83. The management further plead that the workman's appointment was for a specific period mentioned in the appointment letters and his temporary employment came to an end automatically by efflux of time on the expiry of the period specified in the appointment letter. The management deny the applicability of the provisions of Sec. 25G in the present case and pleads that it is applicable only in case of those workmen who had worked for more than 240 days during a period of 12 calendar months. The management also dispute the applicability of the provisions Sec. 25H of the Act, on the grounds alleged with regard to Sec. 25G of the Act. Besides the above the management have taken a few legal pleas such as that the Regional Labour Commissioner (Central), Kanpur had no territorial jurisdiction in respect of the services of the workman, who was employed at Delhi, by the Chandni Chowk (Delhi) Branch of the bank, therefore, the conciliation proceedings being without jurisdiction, the reference and the proceedings based on such reference are bad in law; that there exists no valid industrial dispute between the workman and the management; that the petitioner is not workman within the meaning of section 2(s) of the Act and that the reference order is bad in law. Thus the workman is entitled to no relief.

5. The Union has filed its rejoinder but in its new plea has been raised by it.

6. In this case the Union has filed the affidavit of the workman in support of its case.

7. On 27-1-92, when the case was taken up for cross examination of the Union witness, it was contended by both the sides that they have not to lead any evidence in support of their respective cases where upon arguments in the case were heard.

8. It is the admitted case of the parties that the workman had worked for 70 days only during the period 18-5-83 to 26-7-83, meaning there by that during the said period he had worked continuously. Having worked for much less than 240 days in his case the provisions of section 25G, 25H of the I.D. Act read with Rules 77 and 78 of the I.D. Central Rules would not apply. The provisions of Secs. 25G and 25H read with the above Rules only refer to a workman as had worked for not less than one year continuously i.e. 240 days before the termination of his services.

9. Sri B. P. Saxena, the authorised representative for the workman has submitted that it would be a great obligation on the workman if the court makes an observation that he would be allowed to appear in the written test and interview to be conducted by the Banking Service Recruitment Board for recruitment to clerical cadre. In this connection he has referred to letter dt. 10th August, 1990, of the Ministry of Finance (Banking Division), Government of India, addressed to the Chief Executives of all Public Sector Banks on the subject of recruitment and absorptions of temporary employees in public sector banks with the said letter a copy of the approach paper which was prepared by the Ministry in consultation with the Ministry of Labour was also sent. This letter, I may state, has not been filed in the case but has been produced for examination by Court by Sri Saxena.

10. Sri Saxena has placed reliance on para 6(d) of the Approach Paper which lays down that in all the cases which are pending adjudication before various industrial Tribunal etc. an opportunity for reemployment can be provided by the administrative action of the management. It is a well known fact that recruitment to the clerical cadre has been through the Banking Service Recruitment Board from 1978 onwards. Even if it is held as applicable no definite opinion can be expressed whether in such an event it would be open to the management bank to take such an administrative decision. Further there is no evidence from either side whether or not such an opportunity has been given to such workman by the bank. So no definite view can be expressed with regard to it by the Tribunal. If it is applicable the bank may see to it but it should not be treated as a direction from this Tribunal.

11. Hence, finding no force in the case set up by the Union, the reference is answered against the Union/workman.

12. Reference is answered accordingly.

ARJAN DEV, Presiding Officer

नई दिल्ली, 24 अप्रैल, 1992

का.प्र. 1266:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबन्धन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक प्रधिकरण, नई दिल्ली के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-4-92 को प्राप्त हुआ था।

[संग्रह पत्र-12012/240/90-आई आर (बी-3)]

सुभाष चन्द्र शर्मा, हेड ऑफिसर

New Delhi, the 24th April, 1992

S.O. 1266.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the management of State Bank of India and their workmen, which was received by the Central Government on 23-4-1992.

[No. L-12012/240/90-IR (B-III)]

S. C. SHARMA, Desk Officer

ANNEXURE

BEFORE SHRI GANPATI SHARMA, PRESIDING OFFICER, CENTRAL GOVERNMENT, INDUSTRIAL TRIBUNAL, NEW DELHI
I. D. No. 25/91

In the matter of dispute :

BETWEEN

Shri Chaman Lal S/o Shri Shyam Lal, 113, Kasba Kithore
Distt. Meerut.

Versus

Zonal Manager, State Bank of India, Post Box No. 156,
Garh Road, Meerut-250001.

APPEARANCES :

Workman in person.

Shri S.P. Soni—for the Management.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-12012/240/90-I.R. (B-III) dated 28-2-91 has referred the following industrial dispute to this Tribunal for adjudication :

"Whether the action of the management of State Bank of India in terminating the services of Shri Chaman Lal S/o Shri Shyam Lal w.e.f. 14-10-1989 is justified ? If not, to what relief the workman is entitled to ?"

2. The parties have settled the dispute, Ex. M-1 settlement has been filed duly signed by both the parties. I, therefore, accept the settlement Ex. M-1 and order that this settlement shall become a part of this award and both the parties shall remain bound by the terms of the settlement. Parties are left to bear their own costs of the dispute.

Dated : 9th April, 1992.

GANPATI SHARMA, Presiding Officer

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL/LABOUR COURT, NEW DELHI
I. D. 25 of 1991

BETWEEN

Shri Chaman Lal .. Workman

Vs.

State Bank of India ... Employer

Application for Recording the settlement

Most respectfully sheweth :

1. That the abovenoted Industrial Dispute has been referred to this Hon'ble Tribunal by the Central Government and the said reference is pending.
2. That the parties have entered into an amicable settlement voluntarily which has been executed and witnessed. The Memorandum of Settlement is enclosed.
3. That in terms of the enclosed Memorandum Settlement, reference may be answered leaving the parties to bear their own cost.

Prayer

It is, therefore, respectfully prayed that the settlement in terms of the said Memorandum may be recorded and the award be made in terms of the settlement leaving the parties to bear their own cost.

Chaman Lal

Workman :

Dated : 3-4-1992

New Delhi,

Sd/- illegible

Management/Employer

MEMORANDUM OF SETTLEMENT

Employer—State Bank of India, represented by Asstt. General Manager (R-I), Zonal Office, Meerut.

Workman—Shri Chaman Lal.

SHORT RECITAL OF THE CASE

Whereas :—

- (a) That the workman has raised the above Industrial Dispute case No. 25/1991 over his termination of services by the Bank.
- (b) That the workman was appointed as part-time sweeper in the Bank purely on temporary basis at the Kithore Branch of the employer.
- (c) The parties have arrived at a settlement for maintaining industrial peace and harmony, in view of the Bipartite Settlement dated 27-10-88 and 9-1-91, on absorption of temporary employees and instructions of the Personnel Department New Delhi LHO from time to time.
- (d) That the parties have agreed that this settlement shall be binding on them and that the settlement shall be filed with appropriate authority as required by Rule 58 of the Industrial Disputes (Central) Rules 1957.

Now, the terms and condition of settlement are as follows :—

1. That the workman will be given a chance for appearing in the interview for permanent appointment in the Subordinate Cadre in the Bank, according to his suitability and eligibility.
2. That the workman on being successful and found medically fit will be appointed as per Bank's needs.
3. That on appointment, the workman will be treated as new entrant and will not be entitled for any back wages or difference between the wages payable to regular temporary employees and ad-hoc/fixed remuneration or any attendant benefits.
4. The appointment of workman will be effective from the date he takes up his permanent appointment.
5. The selection of the workman shall be made strictly in accordance with the terms of the Bipartite Agreement and settlement between the Bank and the All India SBI Staff Federation from time to time.
6. That in the event the workman being declared successful for appointment in the service, he will be given the benefit of his aggregate of temporary service for the purpose of increment.
7. The workman agrees to withdraw all the cases in any other court in regard to his termination, if any pending against the Bank.
8. That in short, the workman will have no claim against the Bank whatsoever in future as well, in respect of the present Industrial Dispute. The workman further agrees not to raise any dispute whatsoever before any authority legal forum or court of law regarding his termination of service except for non-implementation of this settlement.

Dated the 3rd day of April 1992.

Signature of the parties

Chaman Lal

Workman :

Witness :

1. Sd/- illegible

2. Sd/- illegible

Sd/- illegible
MANAGEMENT

नई दिल्ली, 22 अप्रैल, 1992

का.सा. 1267 — औद्योगिक विवाद प्रतिनिधित्व 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, शिष्टमान बैंक के प्रबंधन के संयुक्त नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निम्नलिखित औद्योगिक विवाद में औद्योगिक अधिकरण, मद्रास को पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-4-92 को प्राप्त हुआ था।

[संख्या एल-12012/299/85-डी-2 (ए)]

बी.के. वेणुगोपालन, बैंक अधिकारी

New Delhi, the 22nd April, 1992

S.O. 1267.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Madras as shown in the Annexure in the industrial dispute between the employers in relation to the management of Indian Bank and their workmen, which was received by the Central Government on 20-4-1992.

[No. L-12012/299/85-D.II (A)]

V. K. VENUGOPALAN, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL, TAMIL NADU,
MADRAS

Friday, the 23rd day of August, 1991

PRESENT :

Thiru M. Gopulaswamy, B.Sc., B.L., Industrial Tribunal,
Industrial Dispute No. 64 of 1986

(In the matter of the dispute for adjudication under Section 10(1)(d) of the I. D. Act, 1947 between the workmen and the Management of Indian Bank, Madras-1).

BETWEEN

The workman represented by The General Secretary,
Indian Bank Employees' Union 25, II Line Beach,
Madras-600001.

AND

The General Manager, Indian Bank, 31, Rajaji Salai,
Madras-600001.

REFERENCE :

Order No. L-12012/299/85-D.II (A), dated 1-9-86 of the Ministry of Labour, Government of India, New Delhi.

This dispute coming on for final hearing on Wednesday, the 31st day of July, 1991 upon perusing the reference, claim and counter Statements and all other material papers on record and upon hearing the arguments of Thiru N. G. R. Prasad for Tvl. Row and Reddy, Advocates appearing for the workman and of Thiru R. R. Gokulnath for Tvl. Aiyar and Dolia, Advocates appearing for the management and this dispute having stood over till this day for consideration this Tribunal made the following :

AWARD

This dispute between the workman and the management of Indian Bank, Madras-1 arises out of a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947 by the Government of India in its Order N. L-12012/299/85-D.II (A), dated 1-9-1986 of the Ministry of Labour, for adjudication of the following issue :

"Whether the action of the management of Indian Bank, Madras in terminating the service of Shri R. M. A. N. Muthu, with effect from 22-1-85 is justified? If not, to what relief is the concerned workman entitled?"

2. The allegations in the claim statement are as follows :

The worker Thiru RM. RN. Muthu was working as Shroff in the Respondent's Branch at Sowcarpet, Madras. In the course of his duty in the said Bank Branch, Rs. 40,000 was lost from the cabin, in which Thiru Muthu was working. As soon as he found the cash in his custody missing at 10.10 A.M. on 23-4-1981 he reported the matter to the Branch Manager. It was lost in the course of five minutes when he left the cabin to spit betel. The cash was kept with the still cash box kept inside the cabin occupied by Thiru Muthu. Even after thorough search, the missing cash of Rs. 40,000 could not be traced. The Manager of the Branch lodged a Police Complaint. The Police ultimately gave a report that the cash was not detectable. The Respondent considered that the loss was due to the negligence of the Shroff Thiru Muthu. Hence it framed charge against Thiru Muthu, namely, that by his negligence he is guilty of misconduct under para 19.5(f) of the Bipartite Settlement. When the Regional Manager of the Respondent called for an explanation

regarding the loss of Rs. 40,000, Thiru Muthu has given a letter of explanation dated 6-5-1981. The Respondent held a domestic enquiry into the charge against Thiru Muthu. Sowcarpet Branch Manager and the Inspector of the bank gave evidence to prove the charge. The chargesheeted employee Thiru Muthu examined himself as defence witness. By his evidence he has proved that he had kept the cash inside the till box and locked the box before leaving for the wash basin and that he did not display any negligence in keeping the cash. The Managements' evidence was not sufficient to prove the charge. However, the domestic enquiry officer came to a perverse finding that the charge has been proved. The disciplinary authority erroneously accepted the findings as correct and dismissed the employee. The appellate authority also went wrong in dismissing the appeal preferred by Thiru Muthu. Then the Petitioner-Union sent a petition to the Regional Labour Commissioner (Central) for starting conciliation. The conciliation proceedings failed. Thiru Muthu was not paid subsistence allowance over and above half of his pay and allowance after the expiry of first 5 months. The Enquiry Officer's finding is not supported by evidence. The loss incurred by the Bank can be met from the General Insurance Company. When the loss is compensatory by payment from the General Insurance Company, the Respondent has no reason to proceed against Thiru Muthu. The Respondent has committed illegality by recovering amounts from the provident fund, gratuity amount payable to Thiru Muthu. The worker has put in more than 34 years of service without any black mark. In any event, the punishment of dismissal from service is disproportionate and extreme. An award may be passed directing the Respondent to reinstate the employee Thiru Muthu, pay him back wages and give him continuity of service with all other benefits.

3. The Respondent in its counter states as follows :

The domestic enquiry was held into the charge against Thiru Muthu with fairness and according to Principles of natural justice. A sum of Rs. 40,000 which was in the custody of Thiru Muthu was lost from the cabin in which he was working. This loss could have been caused only by Thiru Muthu's negligence. In his letter dated 23-4-1981, Thiru Muthu has admitted that he did not keep the cash cabin door locked when he left for the wash basin to spit. In his letter dated 24-4-1981 the employee Thiru Muthu has admitted that he has moral responsibility in respect of the cash he lost. His liability to account for the missing cash is total. The disciplinary authority correctly confirmed the finding given by the domestic enquiry officer on the basis of acceptance evidence. The punishment of dismissal given by the disciplinary authority on 21-5-1985 is appropriate. The appeal was dismissed by the Appellate Authority on the basis of merits only. The punishment was imposed finally only after hearing the explanation of Thiru Muthu regarding the punishment. The domestic enquiry has been held in accordance with the provisions of Bipartite Settlement by giving all reasonable opportunity to the employee who was assisted by an official of the Employees' Union. The provision under which an employee under suspension for the purpose of facing an enquiry should be paid full monthly wages did not come into force prior to 8-9-1983 and hence Thiru Muthu could not have been paid more than half of monthly emoluments as subsistence allowance for the reason that the delay in concluding the enquiry was caused by Thiru Muthu himself. Along with the communication issued by the disciplinary authority containing the proposed punishment, copy of the findings of the domestic enquiry officer was also sent by registered post to Thiru Muthu. The findings of the domestic enquiry officer are supported by strong evidence and cogent reasons. The punishment of dismissal is quite adequate and just.

4. The Respondent has also filed an additional counter.

5. Exs. W-1 to W-36 and M-1 to M-6 were marked by consent. No oral evidence was adduced on either side.

6. The point for determination are :

- (1) Whether the domestic enquiry has been held with fairness and in accordance with the Bipartite settlement and principles of natural justice ?
- (2) Whether the finding recorded by the domestic enquiry officer that the charge is proved is correct ?
- (3) Whether the punishment of dismissal from service is adequate and just ?

7. Point No. 1.—The charge against the employee Thiru Muthu is that by his negligence in keeping the cash in his custody within the cabin at which he was working as Shroff, Rs. 40,000 consisting of four sections of Rs. 100 notes kept in the till cash box was found missing at about 10.10 A.M. on 23-4-1981 in the Branch at Sowcarpet, Madras and thereby he committed a misconduct defined in clause 19.5(j) of the Bipartite Settlement. A careful perusal of the documentary evidence reveals that full opportunity was given to the charge-sheeted employee Thiru Muthu and that the correct legal procedure has been followed in conducting the domestic enquiry. We do not see any substance in the allegations of Thiru Muthu that the enquiry is vitiated for non-compliance with the provisions of Bipartite Settlement. I therefore hold that the domestic enquiry has been held and completed with fairness and in accordance with law.

8. Point No. 2.—The charge sheeted employee's defence is that he kept the cash within the cabin which was in his charge, that he locked the cabin and went to the wash basin for spitting betel and that when he returned after five minutes (i.e.) at 10.15 A.M. he found four sections of Rs. 100 notes amounting to Rs. 40,000 missing from the till cash box. Before he left the cabin wherein he was working as Shroff on 23-4-1981, at about 10.00 A.M. he had made only three payments of cash, the first payment being cash of Rs. 10,000 received very late on the previous day 23-4-91 from a customer to the co-employee Thiru Abdul Vakil. The second payment is Rs. 31,000 to another employee Thiru Velayudham and the third payment is Rs. 1,300 to a customer. As soon as the cash was found missing by the delinquent employee at about 10.10 A.M. he brought the matter to the notice of the Branch Manager. A report given by the delinquent is Ex. W-4. The employee Thiru Muthu gave an explanatory note Ex. W-5 to the Branch Manager on 24-4-1981. In this note, Thiru Muthu swore that he himself has not taken the missing cash and expressed that he was owing moral responsibility for the loss. He further requested that investigation should be made regarding the cash having been stolen or having been over paid by himself to any customer. The alleged over payment if it was really made could have been made by Thiru Muthu by way of negligence only. If the cash was really stolen by some one else as stated in Ex. W-5, the thief should normally be some stranger in the absence of any possibility of an employee of the Bank being the thief. The only stranger about whom Thiru Muthu has spoken to is the one to whom he has paid Rs. 1,300 in a regular transaction in the account of that stranger. Thiru Muthu has not given any details of identity regarding the customer who withdrew Rs. 1,300 from his account shortly before Thiru Muthu left the cabin and Rs. 40,000 was lost. He was suspended for the purpose of the enquiry by an order dated 25-4-1981, which is marked as Ex. W-6. The charge has been spelt out in this suspension order. By another show cause notice, the Respondent called upon Thiru Muthu to give his explanation to the charge. The employee sent his reply dated 12-8-1981 Ex. W-10, wherein he has given a description of the loss of Rs. 40,000 from the till cash box when he went out to the wash basin and took about five minutes to return to the cabin. For the first time, Thiru Muthu gives a new story in Ex. W-10 regarding one possible manner of loss. It is that one of the duplicate keys was kept by the Accountant of the Branch and that the said duplicate key could have been taken by some one and that the till cash box could have been opened with the key to taken from the table drawer of the Accountant and that any one could have easy access to the table drawer of the Accountant. This is purely an attempt on the part of the employee to throw the blame on somebody else. This sort of belated explanation is given only in August 1981 when the cash was lost in April, 1981. At the domestic enquiry, Sowcarpet Branch Manager was examined as MW-1 and the Inspector (Branches) by name Thiru Vembu who had gone to Sowcarpet Branch immediately after the occurrence for making an on the spot inspection was examined as MW-2. Thiru Muthu who is a Shroff having custody of the cash kept inside his cabin and

within the till cash box should have exercised the greatest care by locking the cabin when he went out to the wash basin at about 10.00 A.M. His allegation that he really locked the cabin while going out to the wash basin is not supported by any other evidence. The findings given by the domestic enquiry officer Thiru Ramani are found in pages 46 to 50 of the typed set and it is marked as Ex. W-15. The Officer has given convincing reasons for arriving at the conclusion that Thiru Muthu had been negligent and only due to such negligence, cash of Rs. 40,000 was lost. The circumstances in which cash kept inside the till cash box was found missing can lead us to only one inference, namely, that the concerned employee Thiru Muthu ~~do~~ not take sufficient precaution and care and did not properly lock the cabin and the till cash box before he went out of the cabin for spitting. The evidence cannot support any other inference. The fact that the loss sustained by the Bank has been compensated by getting insurance amount from the General Insurance Company cannot be answer to the charge. I therefore hold that the finding recorded by the domestic enquiry officer that Thiru Muthu was negligent and he has lost cash in his custody as a result of such negligence is correct, and it is fully supported by evidence and circumstances. This finding has been rightly approved by the disciplinary authority. Hence I answer Point No. 2 against the delinquent employee.

9. Point No. 3.—The employee has served for more than 34 years before he committed the negligence act causing loss of Rs. 40,000. It is open to the Respondent to recover this amount of Rs. 40,000 or any part thereof by enforcing civil liability of the employee. The fact that the Respondent has got Rs. 40,000 from the General Insurance Company cannot take away Thiru Muthu's civil liability. On the question of punishment I consider that the extreme punishment of dismissal from service as a consequence of loss of Rs. 40,000 is not justified. Apart from recovering the said amount or part thereof from Thiru Muthu, the Respondent is given liberty to impose any lesser punishment contemplated under the Bipartite Settlement. I therefore hold that punishment of dismissal from service with effect from 22-1-1985 must be set aside and that the employee must be reinstated in service with effect from 22-1-1985 and must be given all benefits, back wages including continuity of service till the date of his normal retirement by superannuation. I answer this point accordingly.

10. In the result, an award is passed setting aside the punishment of dismissal, giving liberty to the employer to award any lesser punishment and directing the employer-respondent to reinstate the employee Muthu in service with effect from 22-1-1985 and give continuity of service, back wages and other attendant benefits till the date of his normal retirement. No costs.

Dated, this 23rd day of August, 1991.

M. GOPALASWAMY, Industrial Tribunal
WITNESSES EXAMINED

For both sides—None

DOCUMENTS MARKED

For Workmen :

- Ex. W-1/23-4-81—Complaint given to the Inspector, Elephant Gate Police Station regarding loss of cash. (copy)
- Ex. W-2/23-4-81—Letter from Thiru V. N. Vembu to the Management regarding verification of closing balance (copy)
- Ex. W-3/23-4-81—Letter from Respondent-Bank to the Dy. General Manager, Central Office, Vigilance Dept., Madras. (copy)
- Ex. W-4/23-4-81—Letter from Thiru RN. AN. Muthu to the Management (copy)
- Ex. W-5/24-4-81—Letter from Thiru RM. AN. Muthu to the Management granting him time to repay the missing amount of Rs. 40,000 in easy instalments (copy)
- Ex. W-6/25-4-81—Show cause notice issued to Thiru RM. AN. Muthu. (copy)
- Ex. W-7/6-5-81—Letter from Thiru RM. AN. Muthu to the Regional Manager requesting to revoke the order of suspension (copy)

- Ex. W-8/7-5-81—Letter from Regional Manager asking Thiru RM. AN. Muthu to submit reply to the show cause notice (copy)
- Ex. W-9/7-5-81—Letter from Manager to the Regional Manager of the Respondent Bank. (copy)
- Ex. W-10/12-8-81—Explanation by Thiru RM. AN. Muthu to Ex. W-6. (copy)
- Ex. W-11/24-9-81—Charge sheet issued to Thiru RM. AN. Muthu. (copy)
- Ex. W-12/30-11-82—Proceedings of the Enquiry Officer (copy)
- Ex. W-13/13-1-83—Summing up of the Management Representative in the enquiry conducted against Thiru RM. AN. Muthu. (copy)
- Ex. W-14/26-9-83—Defence summing up in the enquiry (copy)
- Ex. W-15/20-10-83—Findings of the Enquiry Officer (copy)
- Ex. W-16/24-8-84—Second show cause notice issued to Thiru RM. AN. Muthu (copy)
- Ex. W-17/27-8-84—Reply by Thiru RM. AN. Muthu to Ex. W-16. (copy)
- Ex. W-18/26-10-84—Defence representative's reply to the show cause notice issued by the Disciplinary Authority proposing the punishment. (copy)
- Ex. W-19/8-1-85—Letter from Respondent-Bank to Thiru RM. AN. Muthu asking him to appear for the personnel hearing (copy)
- Ex. W-20/25-1-85—Letter from Disciplinary Authority to Thiru R.M. AN. Muthu confirming the order passed in the Departmental enquiry (copy)
- Ex. W-21/6-3-85—Appeal preferred by Thiru RM. AN. Muthu against the departmental enquiry (copy)
- Ex. W-22/11-4-85—Letter from Respondent-Bank to Thiru RM. AN. Muthu enclosing order of the Appellate Authority. (copy)
- Ex. W-23/10-8-85—Letter from Petitioner-Union to the Regional Commissioner (Central), Madras to initiate Conciliation proceedings (copy)
- Ex. W-24/29-10-85—Respondent-Bank's submission in the conciliation proceedings (copy)
- Ex. W-25/15-11-85—Reply by petitioner-union to Ex. W-24 (copy)
- Ex. W-26/9-12-85—Reply by Respondent-Bank to Ex. W-25 (copy)
- Ex. W-27/24-12-85—Conciliation Failure Report (copy)
- Ex. W-28/27-5-85—Letter from Thiru RM. AN. Muthu to the Zonal-Manager of the Respondent-Bank (copy)
- Ex. W-29/21-5-85—Letter from Petitioner-Union to the Zonal-Manager of the Respondent-Bank. (copy)
- Ex. W-30/31-12-85—Letter from Provident Fund section of the Respt. Bank to Thiru RM. AN. Muthu regarding payment to provident Fund (copy)
- Ex. W-31/6-1-86—Letter from Thiru RM. AN. Muthu to the Trustees, Indian Bank Staff Provident Fund, Madras-1 (copy)
- Ex. W-32/5-2-86—Letter from Dy. General Manager of the Respondent-Bank to Thiru RM. AN. Muthu regarding settlement of his provident Fund.
- Ex. W-33/25-3-86—Statement showing name, designation, years of service, amount of gratuity and date of sanction due to Tvl. P.A.S. Chalapathy Rao, RM. AN. Muthu and K. Koorath Alwar (copy)
- Ex. W-34/31-12-85—Letter from Respondent-Bank to Thiru RM. AN. Muthu regarding payment of Provident fund amount. (copy)
- Ex. W-35/31-3-86—Letter from Respondent-Bank to Thiru RM. AN. Muthu regarding payment of gratuity. (copy)

Ex. W-36/31-3-86—Details of Income-tax deduction from gratuity payment of Thiru RM. AN. Muthu (copy)

For Management :

- Ex. M-1/23-4-81—Debit note for Rs. 40,000 issued by Sowcarpet Branch of the Respondent-Bank (xerox copy)
- Ex. M-2—Rough cash book folio for Rs. 1,46,568.05 of Sowcarpet branch of the Respondent-Bank (xerox copy)
- Ex. M-3/23-4-81—Xerox copy of cash balance folio for Rs. 1,31,281.27.
- Ex. M-4/23-4-81—First Information Report by Respondent-Bank, Sowcarpet branch to C-2. Elephant Gate Police station, Madras.
- Ex. M-5—Notice issued by Madras Police to B. Swaminathan, Manager, Indian Bank, Sowcarpet Branch.
- Ex. M-6/30-4-81—Letter from Disciplinary Authority to Thiru RM. AN. Muthu (copy).

Sd/-

M. GOPALASWAMY, Industrial Tribunal

नई दिल्ली, 22 अप्रैल, 1992

का.सा. 1268 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, बैंक आफ इण्डिया के प्रबन्धन के संवद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-4-92 को प्राप्त हुआ था।

[संख्या एन-12012/210/91-आई आर (बी-II)]

बी.के. वेणुगोपालन, डैस्क अधिकारी

New Delhi, the 22nd April, 1992

S.O. 1268.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the Industrial dispute between the employers in relation to the Mgt. of Bank of India and their workmen, which was received by the Central Government on the 16-4-92.

[No. L-12012/210/91-IR(B.II)]

V. K. VENUGOPALAN, Desk Officer

ANNEXURE

BEFORE HON'BLE SHRI V. N. SHUKLA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (M.P.)

Case No. CGIT/ILC(R)(218)/1991

PARTIES :

Employers in relation to the Bank of India, Chandrapur (MS) and their workman Sh. Ramchandra Chaudhry, represented through the Regional Secretary, Bank of India workers Organisation, Bank of India Main Branch, Chandrapur (MS)-442401.

APPEARANCES :

For Workman.—None.

For Management.—Shri K.V.V.S. Prasad, Industrial Relation Officer.

INDUSTRY : Banking. DISTRICT : Chandrapur (MS).

AWARD

Dated, February, 28th 1992

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-12012/210/91-IRBJI dated 14-11-91, for adjudication of the following dispute :—

"Whether the action of the management of Bank of India in terminating the services of Sh. Ramchandra Chaudhry is justified? If not, to what relief is the workman entitled to?"

2. Parties were directed to file their respective statement of claim. No one puts appearance on behalf of the work-

man nor filed any statement of claim perhaps the parties have arrived at a mutual settlement which has been filed by the management and also verified the same before this Court on 4-2-1992. The terms of Settlement are as under :—

Terms of Settlement

1. It is agreed that the management shall appoint Mr. Sharad R. Chaudhary as Full Time sepyo afresh against permanent vacancy on usual terms and conditions as laid down in Bipartite Settlements and shall post him at Chandrapur Main branch on or before 9th December, 1991.
 2. It also agreed that Shri S. R. Choudhary shall not claim any back wages for his 'idle period'.
 3. Workmen, Union agreed that they will not claim any benefits of past service rendered by Mr. Choudhary in Bank of India for gratuity, leave and other related benefits as it is a fresh appointment.
 4. It is further agreed that both the parties shall submit the implementation report to the A.L.C. (Central) Chandrapur within 30 days from the date of this settlement failing of which it shall be presumed that the settlement has been fully implemented. This is full and final settlement of the dispute.
3. The settlement arrived at between the parties on 26-11-1991. It is duly signed by the parties concerned. I have gone through the above terms of settlement which appear to be just, fair and in the interest of the workman concerned. I therefore record my award in terms of settlement quoted above without any order as to costs.

V. N. SHUKLA, Presiding Officer

28-02-1992.

नई दिल्ली, 22 अप्रैल 1992

का.प्र. 1269 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, बैंक आफ इण्डिया के प्रबन्धसंरक्ष के संवद्ध नियोजकों और उनके कर्मचारों के बीच प्रनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधि-करण, सं.-2, धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-4-92 को प्राप्त हुआ था।

[संख्या एन-12012/359/90-आई आर(बी-II)]
वी.के. वेणुगोपालन, डेस्क अधिकारी

New Delhi, the 22nd April, 1992

S.O. 1269.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, (No. 2), Dhanbad as shown in the Annexure in the Industrial dispute between the employers in relation to the Mgt. of Bank of India and their workmen, which was received by the Central Government on the 20-4-92.

[No. I-12012/359/90-IR(B-II)]
V. K. VENUGOPALAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD

PRESENT :

Shri B. Ram,
Presiding Officer.

Reference No. 37 of 1991

In the matter of an industrial dispute under Section 10(1)(d) of the I.D. Act., 1947.

PARTIES :

Employers in relation to the management of Bank of India, Regional Office, Dhanbad.

AND

Their workmen.

APPEARANCES :

On behalf of the employers.—Shri B. Joshi, Advocate.

On behalf of the workmen.—Shri Uday Sinha, Advocate.

STATE : Bihar.

INDUSTRY : Banking.

Dated, Dhanbad, the 13th April, 1992

AWARD

The Govt. of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. I-12012/359/90-I.R.B-2 dated, the 14th February, 1991.

THE SCHEDULE

"Whether the action of the management of Bank of India in relation to Baghmara Branch in Dhanbad Region is justified in terminating the services of Shri Manoj Kumar Jha, w.c.f. 1-9-89 ? If not, to what relief is the workman entitled ?"

2. In this case both the parties appeared and filed their respective W.S. documents etc. Thereafter the case proceeded along its course. Subsequently at the stage of oral evidence both the parties appeared before me and filed a petition of compromise. I heard both the parties on the said petition of compromise and I do find that the terms contained therein are fair, proper and beneficial to both the parties. Accordingly accept the said petition of compromise and pass an Award in terms thereof which forms part of the Award as Annexure.

B. RAM, Presiding Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II AT DHANBAD

Reference No. 37 of 1991

Employers in relation to the Management of Bank of India.

AND

Their Workman

Petition of Compromise

The humble petition on behalf of the parties to the above reference most respectfully sheweth :—

1. That the above dispute has been amicably settled between the parties on the terms and conditions mentioned hereinbelow :

Terms of Settlement :

- (a) That the concerned workman will be provided employment as sweeper against available vacancy and will be empanelled for the purpose soon after the award is passed by the Hon'ble Tribunal on the basis of this compromise petition. He will be put on the panel of Temporary sweepers;
- (b) That his case would be considered for permanent employment in the Bank as and when any part time/full time vacancies arise in future. Till such time he is appointed in the permanent service of the Bank as stated above, his case would be considered for temporary appointment as part time/full time Sweeper in Leave vacancies;
- (c) That the concerned workman will have no further claim whatsoever, for the services rendered in the past before his regular absorption on the basis of the aforesaid terms and conditions mutually acceptable to the employer and the Workman.

2. That in view of the settlement there remains no dispute for adjudication.

Under the facts and circumstances stated above, the Hon'ble Tribunal may be graciously pleased to accept the settlement as fair and proper and be pleased to pass the

award in terms of the Settlement.

For the Employers,

1. (.....R.M.)
2. (.....I.R.O.)

For the Workman,

1., the concerned Workman)

Witnesses

1. (.....)
2. (.....)

नई दिल्ली, 22 अप्रैल, 1992

का.आ. 1270.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, इण्डियन बैंक के प्रबन्धतंत्र के सबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुवध में निम्नलिखित औद्योगिक विवाद में लेबर कोर्ट इन्सुलम के वेंचर का प्रकाशन करती है, जो केन्द्रीय सरकार का 21-4-93 को प्राप्त हुआ था।

[सब्या एन-12012/715/87-डी-2 (ए)]

व.के. वेणुगोपालन, डेस्क अधिकारी,

New Delhi, the 22nd April, 1992

S.O. 1270.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Labour Govt., Ernakulam as shown in the Annexure in the Industrial dispute between the employers in relation to the Mgt. of Indian Bank and their workmen, which was received by the Central Government on the 21-4-92.

[No. L-12012/715/87 D-II(A)]

V. K. VENUGOPALAN, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT LABOUR COURT,
ERNAKULAM (LABOUR COURT, ERNAKULAM)

(Friday, the 10th day of April, 1992)

PRESENT :

Shri R. Raveendran, B.A., B.L.,
Presiding Officer.

Industrial Dispute No. 4 of 1988 (C)

BETWEEN

The Regional Manager, Indian Bank, Cochin-682 035.

AND

The General Secretary, Kerala Pradesh Bank Workers Organisation, Central Office, T. D. Road, Ernakulam, Cochin-35.

Representations :—

M/s. Easwar & Mani,
Advocates, Ernakulam, Kochi-35. ..For Management.
Sri. K. Ramkumar, Advocate,
Ernakulam, Koch-16. ..For Union.

AWARD

The issue "Whether the action of the management of Indian Bank in dismissing Sri. A. O. Ramakrishnan, Clerk of Indian Bank Cannanore Branch for his alleged involvement in the loss of Rs. 100 soiled note is justified ? If not, to what relief the workman is entitled ?" was referred to this Court for adjudication by the Government of India, Ministry of Labour, New Delhi as per Order No. L-12012/715/87-D.II(D) dated 4th May, 1988.

2. Dismissal of the employee was after a domestic enquiry into the charges framed against him. The validity of the domestic enquiry was tried by me as a preliminary issue. Facts necessary for the disposal of the case have been narrated in detail in my order dated 11-11-1991 under which the preliminary issue was disposed of. I shall here extract that order in full :—

"PRELIMINARY ORDER

"Whether the action of the management of India Bank in dismissing Sri. A. O. Ramakrishnan, Clerk of Indian Bank, Cannanore Branch for his alleged involvement in the loss of Rs. 100 soiled note is justified ? If not, to what relief the workman is entitled ?" is the issue referred for adjudication as per Order No. L-12012/715/87-D.II(A) dated 4th May, 1988.

2. The workman has filed claim statement stating as follows :—

The workman joined the services of the Indian Bank as Sub-Staff on 8-1-75. He was promoted as Clerk with effect from 20-8-84 and was working in the Cannanore Branch in the year 1984 and he was entrusted with the work in the despatch section. In the course of his employment the bank charged him with an irregularity of shortage of 100 Rupees note of soiled currency. There was no irregularity on the part of Shri. Ramakrishnan and whatever he had done in the performance of duties was in good faith. It appears that the attender incharge was not acting honestly. A domestic enquiry was conducted by the bank but the enquiry proceedings were ex parte without giving any opportunity to the concerned workman to defend himself. The enquiry was made in utter violation of all principles of natural justice. No opportunity was given to the delinquent to cross examine the witnesses examined by the Management. The enquiry itself was conducted in the residence of the Manager which itself will show the biased nature of it. The enquiry was also in violation of the provisions contained in Sastry and Desai awards of Bipartite settlement in relation to the service conditions of the Banking staff. No evidence has been adduced even in the ex parte enquiry proving the misconduct of the workman. Besides inspite of the clear involvement of other staff no steps whatever were taken against the attender or he staff responsible in the same section. It is therefore, clear that the action of the management is mala fide and vindictive attitude to the trade union activities of the workman concerned. The action of the management is clearly an unfair labour practice. There was no justification for imposing such a severe and harsh punishment considering the nature of the charges. The presenting officer in the case is a law graduate and a former officer belong to the CBI and yet the delinquent was not permitted to have the services of a lawyer. The presenting officer was also a senior officer to the enquiry. Therefore the order of dismissal may be set aside and the workman reinstated in service with full backwages and other attendant benefits.

3. The Management has filed written statement contending as follows :—

The workman was charge sheeted for the misconduct that he during 1984-85 while the workman was functioning as despatch clerk in Indian Bank Cannanore Branch the following ORC items being soiled currency notes of various denominations were entrusted to him for despatching the same to Reserve Bank of India, Trivandrum for exchange. The items were reportedly entered by the workman in the despatch register and sent by registered post on 16-1-85. But the workman has insured the envelope containing the items only for Rs. 140 under receipt No. 0807 dated 16-1-85 for Rs. 6.65. The Reserve Bank of India, informed the Management that they received currency notes for Rs. 140 and that the amount was mentioned as Rs. 240 in the covering schedules. Therefore, the workman has misappropriated a sum of Rs. 100 from bank's cash entrusted with him for despatching the same to Reserve Bank of India, which is violative of clause 19.5(I) of Bipartite settlement dated 19-10-66. The disciplinary authority of the management deputed Sri. S. M. Meerasa, the then Manager of Indian Bank, Ambalathara Branch to conduct the enquiry into the charges levelled against the workman. The management was represented by the Assistant Chief Officer, Zonal Office, Ernakulam and the workman was represented by Sri. K. S. Bhat, General Secretary of Kerala Pradesh Bank Workers Organisation. The workman did not adduce any oral or documentary evidence before the enquiry Officer. The copy of the list of witnesses and documents of management side was served on the representative of the workman sufficiently early. The workman did not cross examine the management witnesses examined on 11-4-86. Upholding the principles of natural justice, fair play and equity, sufficient opportunity was afforded to the workman to defend himself in the enquiry proceedings. The enquiry officer found that the workman has misappropriated a sum of Rs. 100 from bank's cash entrusted with him for despatching to the Reserve Bank, Trivandrum for exchange. Accepting the finding of the enquiry officer he was dismissed from service. The enquiry was conducted strictly in terms of the Bipartite settlement dated 19-10-66.

4. The Union has filed rejoinder reiterating his claims in the claim statement and refuting the contentions in the written statement.

5. The points that arise for consideration are whether the enquiry conducted by the enquiry officer is legal and proper and the finding entered by the enquiry officer is supported with legal evidence.

6. For the Management Ext. M1 is marked.

7. Point.—The delinquent was employed as a Sub-Staff in the Management establishment with effect from 8-1-75. Thereafter he was promoted as clerk with effect from 20-8-84 while he was working in the Cannanore Branch in the year 1984 and he was entrusted with the work in the despatch section. While he was working as clerk a show cause notice was issued to him calling for his explanation why disciplinary action should not be initiated for the misconduct committed by him. He submitted his explanation in pursuance of the notice denying the charges. Not satisfied with the explanation submitted by him the management ordered a domestic enquiry by appointing a domestic enquiry officer. The enquiry officer held the enquiry and made the report Ext. M1 finding the delinquent guilty of the charges. Accepting the findings of the enquiry officer the management dismissed the delinquent from service. Aggrieved by the said order of dismissal the union espoused cause by raising an Industrial Dispute which culminated in this reference.

8. The Union is challenging the report and the finding of the enquiry officer on the grounds that the enquiry was not conducted in conformity with principles of natural justice and the findings entered by the enquiry officer are perverse. The management has not examined the enquiry officer to prove that he has conducted the enquiry following the principles of natural justice. So also it is pertinent to note that the Ext. M1 is only the report of the enquiry officer but the evidence adduced by the management in the enquiry and the proceedings the enquiry are not produced in this court. Therefore this court is not in a position to find as to whether the enquiry officer has conducted the enquiry in conformity with the principles of natural justice and the enquiry officer has entered the finding relying on the legal evidence adduced in the enquiry. In these circumstances, I find that the enquiry officer has not conducted the enquiry following the principles of natural justice and the findings entered by the enquiry officer cannot be said to be supported with legal evidence. Hence I hold that the findings entered by the enquiry officer and the report are liable to be set aside and I do so. There is no request for the management that they may be permitted to adduce fresh evidence in case it is found that the enquiry was not conducted properly and legally. Therefore there is no necessity to give further opportunity to the management for adducing fresh evidence to substantiate the charges.

9. In the result, a preliminary order is passed finding that there is no legal and proper domestic enquiry and the findings entered by the enquiry officer also are not supported with legal evidence."

III. The question remains to be considered is relating to the justifiability and propriety of the punishment of dismissal imposed on the delinquent. In the preliminary order dated 11th November, 1991 it is found that there was no legal and proper domestic enquiry and the findings entered by the enquiry officer also are not supported with legal evidence. Therefore the punishment imposed on the delinquent accepting the finding of an enquiry officer in a domestic enquiry which was conducted illegally and improperly is also illegal and invalid. Therefore the punishment imposed on the delinquent cannot be justified. That follows, that the workman is entitled to get reinstatement with full backwages and continuity of service. Nothing is brought out by the management to show that there are sufficient circumstances warranting the refusal of full backwages to the workman. Hence I find that the workman is entitled to the reinstatement with full backwages and continuity of service.

IV. In the result, an award is passed setting aside the order of dismissal and directing the Management to reinstate the workman in service with full backwages and continuity of service.

Frankfurt.

10-4-1992.

R. RAVEENDRAN, Presiding Officer

APPENDIX

Exhibit marked on the side of Management :

Ext. M1.—Findings of the Enquiry conducted against Sri A. O. Ramakrishnan CI/Sh. Cannanore Branch.

मई दिनांक, 24 अप्रैल, 1992

का आ. 1271:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूची में, केन्द्रीय सरकार, विजया बैंक के प्रबन्धकों के संबंध में नियंत्रणों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलूर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-4-92 को प्राप्त हुआ था।

[संख्या एन-12012/873/88-डी-2 (ए)]

बी.के. वेणुगोपालन, डेस्क अधिकारी

New Delhi, the 22nd April, 1992

S.O. 1271.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the industrial dispute between the employers in relation to the management of Vijaya Bank and their workmen, which was received by the Central Government on 20-4-1992.

[No. L-12012/873/88-D.II (A)]

V. K. VENUGOPALAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Bangalore, the 31st March, 1992

PRESENT :

Shri M. B. Vishwanath, B.Sc. LL.B., Presiding Officer.
Central Reference No. 10 of 1989

I PARTY :

Shri P. S. Subramanya, C/o Shri Sushendra Cafe Lodging,
No. 165, Arcot Srinivasachar Street, Bangalore-560053.

(By Sri L. Ramaiah, Advocate)

II PARTY :

The General Manager, Vijaya Bank, H.O. Trinity Circle,
No. 14, M.G. Road, Bangalore-560001.

(By Sri K. Jagadeesh Alva, Advocate)

AWARD

In this reference No. L-12012/873/88-D.II (A) dated 5-1-89 by the Hon'ble Central Government in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2-A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the point for adjudication as per Schedule to reference is :

"Whether the action of the management of Vijaya Bank in terminating the services of Shri P. S. Subramanya Stenographer is justified? If not, to what relief is the workman entitled?"

2. In the claim statement it is stated :—

The I Party workman joined the services of the Vijaya Bank with effect from 31-10-1975 as a Stenographer. Later he was confirmed in the said post i.e., with effect from 30-7-1976. He was working in the Head Office of the Bank at Bangalore. He was transferred to Worli Branch of the Bank at Bombay. He worked there till his services were illegally terminated. When the I Party workman was working in the Worli Branch he fell ill. Since 1983 the legs of the I Party workman were affected with skin allergy. The I Party workman was taking treatment. The I Party workman was therefore forced to apply for leave. On 22-8-83 which was renewed by him on 2-9-83 and again renewed on 25-9-83. The I Party prayed for extension of leave on 1-10-83. Subsequently also he prayed for extension of leave because of the medical problems he had. The I Party received an order from the General Manager which stated that the I Party had remained absent

from duty since 27-6-83. It was also stated in the order that the I Party had failed to report for duty and he had no intention to report for duty. A final notice dated 20-2-1984 was issued to I Party. It was stated that as per Bipartite settlement the I Party workman would be deemed to have voluntarily retired from service on the expiry of 30 days and his name was struck off from the muster rolls of the II Party—Bank. The I Party workman submitted a representation dated 28-5-1984 to the General Manager. The I Party was directed to report for duty within one month from the date of the letter dated 20-2-84. The I Party sent a telegram that he was ill and requested for extension of leave upto 30-4-84. He submitted a representation also dated 19-3-84. In spite of representation dated 6-5-1984 the services of the I Party were terminated as per order dated 14-5-84.

3. The I Party made representation dated 28-5-84 to the General Manager. He filed an appeal also against the order of termination. The representation of the I Party was rejected. The termination of the services of the I Party is illegal and is in violation of Bipartite Settlement. Leave was granted to I Party till 30-4-84. All the representations made by the I Party have been rejected. The I Party had no intention not to join the services of the II Party. He was applying for leave because of his illness. The termination of the services of the I Party, in any case, without holding an enquiry is illegal.

4. Even otherwise, the action taken by the II Party terminating the services of the I Party amounts to retrenchment. The provisions of Section 25-F have been violated. For this reason also the termination is illegal. The I Party has been subjected to hostile discrimination.

5. Clause 60 of the 4th Bipartite Settlement on which the II Party has relied has no application. The report of the Bank's Doctor Mahadevan is incorrect. The medical certificates produced by the I Party workman are true and correct. The I Party workman could not report for duty for the reasons beyond his control. The termination of the services of the I Party is thoroughly illegal. The II Party has committed unfair labour practice. The reference has to be answered in favour of the I Party and an award should be passed ordering reinstatement of the I Party with full back wages.

6. The II Party has contended in the counter statement:—

There is no termination of the services of the I Party workman by the II Party. The I Party abandoned the services of the Bank. His name was struck off in accordance with the terms of the 4th Bipartite settlement. The reference itself is bad.

7. The I Party workman joined the service of the bank on 31-10-1975 as Stenographer at Head Office. He was confirmed in his post on 30-7-1976. He was working in Bangalore till 10-10-1981, when he was transferred to Worli branch on 5-12-1981. While working at Worli branch, he applied for 20 days' leave on loss of pay on medical grounds from 27-6-1983, subsequently, he remained absent from duty unauthorisedly. Three letters were addressed to him on 19-8-83, 8-10-1983 and 9-11-1983 by the second party bank instructing him to report for duty within three days from the date of the said letters. In reply, the first party workman expressed his inability to report for duty immediately, as he was having gastric trouble and stomach pain. The Bank arranged for medical examination of the I Party workman by a doctor of the bank's choice at the bank's cost. This is provided for in Circular No. 72/82 dated 15th May 1982. Accordingly, a medical examination was held on 2-1-1984. The doctor, on examination of the I Party workman, gave a report that the I Party workman is physically fit to resume duty and that first party workman had also stated that he is prepared to report for duty at Worli branch on 1-2-1984. Though according to medical opinion, he was found fit to resume duty, he failed to do so. In the circumstances, a final notice was issued to him on 20th February 1984 calling upon him to report for duty at Worli branch within 30 days from the date of receipt of the said notice. It was made clear that in case he failed to report for duty within the stipulated period, it would be deemed that he had voluntarily retired from the service of the bank on the expiry of 30 days and that his name would be struck off from the rolls of the Bank. This notice was issued

to him in terms of clause XVI of the Fourth Bipartite Settlement.

8. Since the I Party failed to report for duty, the II Party issued the order dated 14-5-84 treating his unauthorised absence as voluntarily retirement. The II Party rightly struck off the name of the I Party workman from the rolls of the Bank. The I Party abandoned the services. There was no termination of the services of the I Party. The I Party instead of reporting for duty went on making false representations to the management. The contention of the I Party that an enquiry should have been held against him is wrong. The ailments complained of by the I Party are not borne out by the medical certificate given by the Bank's doctor. The allegations of prejudice made against the Bank's doctor are false. This is not a case of retrenchment. The Bank has invoked the provisions of Bipartite settlement, viz., voluntarily cessation of employment by the employee. The medical certificates produced by the I Party were not acceptable to the Bank. The bank was within its right not to sanction leave. The action of the II Party management is proper and legal. The I Party was not interested in his employment in the Bank. The I Party abandoned his job. The I Party is not entitled to any relief.

9. My learned predecessor has framed the following issues on 3-4-1989.

- (1) Whether the II Party proves that the I Party employee abandoned the service ?
- (2) Whether the reference is liable to be rejected for the reasons shown in para 2 of the counter statement?
- (3) Whether the claim of the I Party is liable to be rejected on the ground of delay and laches ?
- (4) What order ?

10. On behalf of the II Party MW-1 Raghuchandra Shetty, Senior Manager of the II Party has been examined. On behalf of the I Party he has got himself examined and closed his case.

11. In para 2 of the counter statement it is stated that the case of II party is that there was no termination. So the reference made by the Government calling upon this Tribunal to adjudicate whether the action of the II party in terminating the services of I party is justified is bad. It is true that it is not the case of the II party that it terminated the services of I party. On this background, the reference made by the II party using the word 'terminate' looks incorrect. But I am not prepared to hold that the reference itself is bad. We can adjudicate the controversy between the parties, taking into consideration the stand of the I party in the claim statement and the stand of the II party in the counter statement. So I hold Issue No. 2 against the II party, though the schedule to the reference has not been accurately worded.

12. In the written arguments submitted on 6-8-91 by the I party at page 25 it is stated that the II party has used the word 'termination' and the word 'retrenchment' in the counter statement. I have extremely carefully gone through the counter statement. Nowhere has the II party stated in counter statement that it terminated the services of I party. Nowhere the II party has stated that it retrenched the I party.

13. The II party has acted under Clause XVI of the Fourth Bipartite Settlement (B.P.S.) Clause XVI of the B.P.S. contemplates where the employee should be taken to have voluntarily retired. Clause XVI of B.P.S. does not speak of abandonment or voluntary abandonment of services by the employer. But in the counter statement, apart from saying that the I party voluntarily retired, it is also stated that the I party himself abandoned the services. (See para 5 and 17(b)). Thus there is some confusion in the stand taken by the II party. The II party is not clear in its mind whether the I party was taken to have been voluntarily retired or voluntarily abandoned the services.

14. In the notice Ex. M. 12 dated 14th May, 1984 issued to the I party it is stated that the I party was deemed to have voluntarily retired from the services of the Bank. While stating this, it is also stated in the same para that I party's name would be struck off from the rolls. I party tried to magnify the use of the phrase "struck off". Since it is made clear in Ex. M. 12 that the I party was deemed to have

voluntarily retired from the services, the use of the phrase "struck off" is innocuous.

15. First I will refer to the circumstances which definitely clinch the matter.

16. Ex. M. 11 dated 20th February, 1984 is a letter issued by the II party to I party calling upon the I party to report for duty within 30 days and stating that if he did not report for duty within 30 days, I party would be deemed to have retired voluntarily from the services of the Bank and that his name would be struck off from the muster rolls. Ex. M. 12 dated 14th May, 1984 is the order passed by the II party actually holding that the I party was deemed to have voluntarily retired from the services of the Bank and so his name was struck off from the muster rolls of the Bank.

17. It bears repetition. Ex. M. 11 is a notice in the nature of warning calling upon the I party to report for the duty. Ex. M. 12 is the order passed by the II party on 14th May, 1984 holding that the I party had voluntarily retired from the services and therefore his name was struck off from the muster rolls of the Bank with immediate effect. It is the definite case of the II party that the services of the I party were put an end to as per Ex. M. 12 dated 14-5-1984 with effect from that day viz. 14-5-1984.

18. Ex. W 3 dt. 24-4-1984 is an intimation sent to I party calling upon the I party for a promotion test to be held on 29-4-1984. We have to see what is the effect of Ex. W-8 on the conduct of the II party. The II party issued Ex. M-11 dt. 20-2-1984 calling upon the I party to report for duty within 30 days. Eventhough the I party did not report for duty within 30 days from Ex. M-11, the II party has chosen to call upon the I party to appear for a promotion test on 29-4-1984, 30 days after the date of Ex. M-11. The effect of Ex. 3 is that II party treated the I party to be in service even 30 days after Ex. M-11. The conclusion that follows is that the II party did not act upon M.11. Consequently the order passed as per Ex. M.12 dt. 14-5-1984, holding that the II party had voluntarily retired from service is bad since no fresh notice on the lines of Ex. M-11 was issued to I party. Clause XVI of the B.P.S. clearly says that before the Management passes an order holding that an employee must be deemed to have voluntarily retired from service should call upon the employee through a notice to report for duty within 30 days.

19. Let me make myself understood again. Before an employee is held to have voluntarily retired from service, clause XVI of B.P.S. says that he should be called upon through a notice to report for duty within 30 days and if he does not report for duty within 30 days, then only it would be deemed that he had retired voluntarily from the service. In the instant case the II party issued notice Ex. M.11 dt. 20-2-1984 calling upon the II party to report on duty within 30 days from 20-2-1984. But even after 30 days mentioned in Ex. M-11 elapsed, the II party has informed the I party to appear for a promotion test on 24-4-1984. What does this mean? The II party has given the go by to Ex. M-11. That is why I hold that the order passed as per Ex. M-12 without issuing the I party a fresh notice is bad.

20. For the aforesaid reasons, I am of opinion that the order passed on 14-5-1984 as per Ex. M-12 that the I party was deemed that he had voluntarily retired from the services of the Bank cannot be stood. On this score the I party is entitled to reinstatement.

21. The Learned Counsel for the II party relied on vol. 78 F.J.R. page 276 (New Bank of India V/s. N. P. Sehgal and another) to impress upon me that the communication Ex. W-3 issued to I party calling upon the I party to appear for promotion test does not take away the effect of Exs. M-11 and 12. This authority has been rendered by the Hon'ble Supreme Court. What happened in this case was the charge sheet was issued to the employee and disciplinary proceedings were contemplated. It was held by the Supreme Court that issuance of a charge sheet was no ground for not considering the employee for promotion. It is absolutely clear from the facts of this Authority that disciplinary proceedings were contemplated against the employee and those disciplinary proceedings contemplated against the employee were kept in abeyance. It was under these circumstances that the Supreme Court was pleased to hold that the employee cannot

be denied promotion. This Authority is not at all applicable to the facts of the present reference. In the instant case the II party issued notice Ex. M-11 calling upon the I party to report for duty. The II party by its subsequent conduct by calling upon the I party to appear for promotion test, clearly showed its intention to throw overboard the notice Ex. M-11.

22. In para 5 of the counter statement it is stated that the I party workman had abandoned the services himself and had over stayed beyond the period of sanctioned leave. As per clause 19.7 (B.P.S. at page 277) of the Book on Service Regulations and Emoluments of Workmen in Banks, absence leave without or overlying sanctioned leave without sufficient grounds is a minor misconduct. In the instant case the II party has not held any enquiry in respect of the minor misconduct of the I party. Moreover, Clause 19.8 says that an employee found guilty of minor misconduct may be warned or censured or have adverse remark entered against him or have his increment stopped for a period not longer than six months. In the instant case, the action of the II party as per Ex. M.12 in respect of the minor misconduct committed by the I party is in violation of Clause 19.8 B.P.S. The order as per Ex. M.12 is therefore to be set aside.

23. Memorandum of Settlement dt. 17-9-84 between the Managements of Banks and their Workmen has been made applicable as per Clause XV with retrospective effect from 1-7-1983. As per clause IX of this Settlement, an employee shall be granted sick leave at the rate of one month for each year of service, subject to a maximum period of 18 months during his entire service. As per Ex. W.4, M.7, M.14 and M.13, the I party has sent leave applications for extension of leave on medical grounds. The II party has not granted medical leave when they were bound to grant as per clause IX of the Memorandum of Settlement. If it were the case of II party that the I party was making false representations, the II party was bound to hold an enquiry against the I party. Added to this, the II party has not produced the leave record of I party though called upon to do so, nor have they informed the I party that the leave prayed by the I party was refused. The II party has not produced any material to show that the I party had no sick leave to his credit. Explanation to clause IX referred to above says that sick leave should be granted to the employee and it cannot be refused merely on the ground that the employee had no sick leave under the previous settlement. At page 112 of Service Condition of Bank Employees by R. K. Ghatgaikar under the "LEAVE RULES" it is stated that if leave is refused, the reason for the refusal should be sent to the employee. The II party has not done this. The contention of the II party that the I party has no intention to continue in service has to be rejected.

24. On behalf of the I party Circular No. 192/83 dated 17-10-83 of the II party Bank was pressed into service. This has no application with the present case. This circular contemplates "Where an employee has not submitted any application for leave". Admittedly the I party has submitted applications.

25. On behalf of the I party many authorities have been submitted. They all relate to retrenchment or striking off the name of the workmen without enquiry. I have already stated that it is not the case of the II party that it retrenched the I party and that the word 'striking off' has been used by II party without meaning it.

26. The II party has relied on volume 70 F.J.R. page 373 (B. D. Tripathi V/s. Indian Airlines Corporation). This authority relates to termination of service after holding an enquiry. This Authority is not applicable because it is not the case of II party that it held an enquiry and then terminated the services of I party.

27. For the aforesaid reasons, I am of opinion, the order passed by the II party as per Ex. M.12 holding that the I party workman had voluntarily retired has to be set aside. Accordingly it is set aside.

28. It cannot be said that the II party had abandoned the services of the II party. I hold issue No. 1 against the II party. There is no substance in the contention that there is delay and latches. I hold issue No. 3 against the II party.

29. All other documents and evidence not referred to by

me are not relevant. In any case they do not alter the conclusions reached by me above. I have touched the salient points.

30. Now the point for consideration is :

“Whether the I party is entitled to back wages?”

31. The I party has alleged that he has been victimised. There is absolutely no material to show that he has been victimised. The II party has produced Doctors' Certificates Exs. W.5, 6, and 8 to show that he was ill and under treatment. Ex. W.7 is the telegram sent by I party to show that he was undergoing Ayurvedic treatment at Mangalore. The Doctors who issued the certificates have not been examined. I find it difficult to believe these Doctors' Certificates. It is significant to note that the I party did not report for duty even after the Bank's Doctor certified that he was fit to resume his duties. (Please see Ex. M.10 dt. 4-1-84). In my opinion, the I party was trying to avoid his transfer to Worli Branch. Hence I am not inclined to grant back wages. The reference has been decided in favour of the I party mainly because of technical reasons. Anyway I grant him compensation of Rs. 25,000 in lieu of back wages.

32. In the result, I pass the following :

AWARD

The order passed by the II party as per Ex. M.12 holding that the I party must be deemed to have voluntarily retired from service is set aside.

The II party is directed to reinstate the I party.

The II party shall pay to the I party compensation of Rs. 25,000. This amount shall carry interest at 9 per cent per annum till it is paid to I party.

Reference is accepted and award passed as stated herein.

(Dictated to the Stenographer, taken down by him, got typed and corrected by me).

M. B. VISHWANATH, Presiding Officer

P.S.—There is some delay in passing the award in this case. The Secretary of this Tribunal who was taking down dictations had a serious paralytic stroke. He was on long leave. Hence the delay.

I humbly pray that I may kindly be excused for delay.

नई दिल्ली, 24 अप्रैल, 1992

का.आ. 1272—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, भारत कोयला कोल लि. की बरारी कोलियरी के प्रबन्धन से संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (स. 1), धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-4-92 को प्राप्त हुआ था।

[फाइल संख्या एन-20012/72/90-आई.आर. (कोल-1)]

बी.के. वेणुगोपालन, डेस्क अधिकारी

New Delhi, the 24th April, 1992

S.O. 1272.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, (No. 1), Dhanbad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bararee Colliery of M/s. Bharat Coking Coal Ltd. and their workmen, which was received by the Central Government on 20-4-1992.

[No. L-20012/72/90-IR (Coal-I)]

V. K. VENUGOPALAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947

Reference No. 257 of 1990

PARTIES :

Employers in relation to the management of Bararee Colliery of M/s. B.C.C. Ltd.

AND

Their Workmen.

PRESENT :

Shri S. K. Mitra, Presiding Officer.

APPEARANCES :

For the Employers—Shri B. M. Prasad, Advocate.

For the Workmen—None.

Dated, the 2nd April, 1992

AWARD

By Order No. L-20012/72/90-I.R. (Coal-I), dated, the 17th October, 1990, the Central Government in the Ministry of Labour, has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2-A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the action of the management of Bararee Colliery of M/s. BCCL, P.O. Bhulanbararee, Dist. Dhanbad in denial of proper categorisation of Shri Sarjoo Mahato, Sri Gorelal Dhari and Sri Brinchi Dhari is justified ? If not, to what relief the workmen are entitled ?”

2. The case of the management of Bararee Colliery of M/s. B.C.C. Ltd., as disclosed in the written statement-cum-rejoinder, details apart, is as follows :

The present reference is incompetent. The concerned workmen were initially placed in Category-I. The management had taken their cases into consideration and placed them in Category-II. Their claim for being placed in Category-III is totally unjustified as nobody can be given double promotion. The allegation that the Agent of the Colliery made endorsement for giving them Category-III wages is not sustainable. It appears that the Agent had made such endorsement under pressure as no officer can endorse such an impossible thing unless he is put to pressure. The action of the management in putting the concerned workmen in proper category is fully justified.

3. The case of the concerned workmen, as appearing in the written statement submitted on their behalf by the Branch President, Janta Mazdoor Sangh, Bararee Colliery, is as follows :

The concerned workmen had been working at B.B.O.C.P. of M/s. B.C.C. Ltd. to the entire satisfaction of the management. While working in the said project they qualified themselves for promotion to Excavation Grade 'E' and were expected to be placed in that grade by promotion very shortly, but they were transferred to 6 Pit of Bararee Colliery from that Project. They protested against this transfer but at the intervention of the then Agent of Bararee Colliery they agreed to work in the place of transfer and on the job on the assurance of the said Agent that they would be placed in Category-III from the date of joining their duty at the place of transfer. Relying on the assurance of the Agent they started working at the place where they were transferred with the hope that they would be placed in Category-III but they were not placed in Category-III. They submitted representation dated 12-8-1985. The then Agent of Bararee Colliery made recommendation on the back of the said representation on the following date for placing them in Category-III. But the management did not place them in Category-III and ultimately an industrial dispute was raised before Asstt. Labour Commissioner (C), Dhanbad. It is submitted that assurance was given by a competent authority and it was justified inasmuch as the concerned workmen were to be compensated for their loss of promotion.

4. In rejoinder to the written statement of the union, the management has denied that the concerned workmen qualified for promotion in Excavation Grade 'E'. They were General Mazdoor, and are supposed to work anywhere under the

management and in the interest of the management. The Agent may have made some recommendation but that was under duress.

5. The parties arrayed have not adduced any evidence oral or documentary. The pleadings of the parties arrayed disclose that the concerned workmen were working as General Mazdoors and were placed in Category-I. Although the written statement of the sponsoring union discloses that while working in B.B.O.C.P. Project they qualified for promotion to Excavation Grade 'E', the management has totally denied this position. In such circumstances, it is the bounden duty of the union to prove this fact. But the union could not prove it by adducing any whit of evidence.

Admittedly, the concerned workmen were transferred to Bararee Colliery. The union has assailed this transfer. But in terms of Service Conditions the management is entitled to transfer any workman from one of its establishment to another or from one Colliery to another in the interest of administration. The management has since placed them in Category-II.

That union has claimed that the then Agent of Bararee Colliery recommended their case for placing in Category-III. This recommendation has not been produced before me. It appears that the concerned workmen got promotion from Category-I to Category-II. Even if it is accepted that the Agent had recommended their placement in/or promotion to Category-III but that was still in the nature of recommendation and the higher management is entitled either to accept or reject it. It appears that the higher management did not accept the recommendation. In these circumstances, it has got to be proved by the union that the concerned workmen were discharging the duties and responsibilities of workmen under Category-III, but no evidence has been laid on this issue. That being so, I hardly find any substance in the case of the sponsoring union for placement of the concerned workmen in Category-III.

6. Accordingly, the following award is rendered—

the action of the management of Bararee Colliery of M/s. B.C.C. Ltd., P.O. Bhulanbararee, Dist. Dhanbad, in denying the claim of the concerned workmen, namely, Sarjoo Mahato, Gorelal Dhari and Brinchi Dhari for their placement in Category-III is justified.

In the circumstances of the case, I award no cost.

S. K. MITRA, Presiding Officer

नई दिल्ली, 24 अप्रैल, 1992

का.प्र. 1273.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्तर्गत में, केन्द्रीय सरकार, सैगम भारत कोल्फिज कोल लि. की जालगोरा कोलियरी के प्रबन्धन से संबंधित विवादों और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिनियम (सं. 2), धनबाद के पंचाट की प्रस्तावित करती है, जो केन्द्रीय सरकार को 20-4-92 को प्राप्त हुआ था।

[का.प्र. सं. एल-24012(138)/86-डी-1 (बी)/आर्.आर. (कॉल-1)]

कां. के. वेणुगोपालन, डेस्क अधिकारी

New Delhi, the 24th April, 1992

S.O. 1273.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Jealgora Colliery of M/s. Bharat Coking Coal Ltd. and their workmen which was received by the Central Government on 20-4-1992.

[No. L-24012/138/86-D.IV (B)]

V. K. VENUGOPALAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri B. Ram, Presiding Officer.

In the matter of an industrial dispute under Section 10(1)(d) of the I. D. Act, 1947

Reference No. 99 of 1987

PARTIES :

Employers in relation to the management of Jealgora Colliery of M/s. BCCL and their workmen.

APPEARANCES :

On behalf of the workmen—Shri D. Mukherjee, Secretary Bihar Colliery Kamgar Union.

On behalf of the employers—Shri B. Joshi, Advocate. STATE : Bihar

INDUSTRY : Coal

Dhanbad, the 13th April, 1992

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-24012(138)/86-D IV (B), dated, the 26th February, 1987.

SCHEDULE

"Whether the action of the management of Jealgora Colliery P.O. Bhowra, Area No. XI of M/s. BCCL in retiring Smt. Kuloda Kamin Shale-Picker from service w.e.f. 6-4-1985 is justified? If not, to what relief the workman concerned is entitled?"

2. In this case both the parties appeared and filed their respective W.S. documents etc. Thereafter the case proceeded along its course. Subsequently at the stage of oral evidence both the parties appeared before me and filed a petition of compromise. I heard both the parties on the same petition of compromise and I do find that the terms contained therein are fair, proper and beneficial to both of them. Accordingly I accept the petition of compromise and pass an Award in terms thereof which forms part of the Award as Annexure.

B. RAM, Presiding Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NO. 2

Reference No. 99/87

Employers in relation to the Management of Jealgora Colliery

AND

Their workmen.

PETITION OF COMPROMISE

The humble petition on behalf of the parties to the above reference most respectfully sheweth :—

1. That the above dispute has been amicably settled between the parties on the following terms :—

TERMS OF SETTLEMENT

(a) That the concerned lady Smt. Kuloda Kamin will be paid 50% (fifty percent) of wages of her category for the period from 6-4-85 till 31-12-85 as a special case and in consideration of the said payment she will not dispute legality or validity of her superannuation at any time.

(b) That the Management will make of the aforesaid amount within two months from the date of publication of the Award in the present reference.

(c) That the Management will make payment of all arrears of dues including gratuity if any within 30 days from the date of this Settlement.

(d) That the concerned lady will have no further claim arising out of her superannuation.

2. That in view of the above Settlement there remains nothing to be adjudicated.

Under the facts and circumstances stated above the Hon'ble Tribunal will be graciously pleased to accept the Settlement as fair and proper and be pleased to pass the Award in terms of the Settlement.

For the workman :

2. Sd/-

1. M. Sen Area Secretary
B.C.K.U.

2.

For the Employers :

1 A. K. Paul,
Agent, Jealgora Colliery
2. Bhagwan Prasad,
Dy. C.P.M.

Witnesses :

1. Illegible
(AT Rani)
2. Illegible
(C. S. Prasad)

नई दिल्ली, 21 अप्रैल, 1992

का.अ. 1274.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, गैर-यौन कोयला लि. का फुलरिन्द टाउ कोयले के प्रवर्धन से संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (रो. 1), प्रस्ताव के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार का 20-4-92 को प्राप्त हुआ था।

[फाइल नं. एन-20012(165)/91-आई.आर. (कोल-1)]

श्री. के. वेणुगोपालन, डेस्क अधिकारी

New Delhi, the 24th April, 1992

S.O. 1274.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 1), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Phularitand Colliery of M/s. Bharat Coking Coal Ltd. and their workmen, which was received by the Central Government on 20-4-1992.

[No. L-20012(165)/91-IR (Coal-I)]

V. K. VENUGOPALAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947

Reference No. 144 of 1991

PARTIES :

Employers in relation to the management of Phularitand Colliery of M/s. B.C.C. Ltd.

AND

Their Workmen.

PRESENT :

Shri S. K. Mitra, Presiding Officer.

APPEARANCES :

For the Employers—Shri K. P. Rawani, Sr. Clerk,

For the Workmen—None.

STATE : Bihar

INDUSTRY : Coal

Dated, the 1st April, 1992

AWARD

The present reference arises out of Order No. L-20012 (165)/91-I.R. (Coal-I), dated, the 3rd December, 1991 passed by the Central Government in respect of an industrial dispute between the parties mentioned above. The subject matter of the dispute has been specified in the schedule to the said order and the said schedule runs as follows :—

“Whether the management of Phularitand Colliery in Barora Area No. 1 of M/s. BCC Ltd., PO Nawagarh, Dist. Dhanbad is justified in denying regularisation of the workman Shri Dinanath Singh in the post of Munshi/Clerk Gr. III w.e.f. 10-6-1987 ? If not, to what relief the workman is entitled ?”

2. The dispute has been settled out of Court. A memorandum of settlement has been filed in Court. I have gone through the terms of settlement and I find them quite fair and reasonable. There is no reason why an award should not be passed on the basis of terms and conditions laid down in the memorandum of settlement. I accept it and pass an award accordingly. The memorandum of settlement shall form part of the award.

3. Let a copy of this award be sent to the Ministry as required under section 15 of the Industrial Disputes Act, 1947.

S. K. MITRA, Presiding Officer
Ref. 144/91

MEMORANDUM OF SETTLEMENT

See Rule 58(4)

Memorandum of settlement arrived at with the Representative of RCMS represented by Sri Basudev Sarkar, Br. Secy. RCMS, and the Management of Barora Area, dated 6-2-92. Management Rep. :

1. Sri S. P. Singh,

Dy. Chief Personnel Manager,
Barora Area.

Union/Workmen :

1. Sri Basudev Sarkar.

Br. Secy. RCMS,
Phularitand Branch.

2. Sri Dinanath Singh,

workman of Phularitand Colliery.

SHORT RECITAL OF THE CASE

Sri Dinanath Singh designated as Trammer, Category-III has been working as Munshi at Phularitand Colliery. The representative of RCMS put up the grievance before the Management that as Sri Dinanath Singh has been working as Munshi from 9-10-88, therefore, he should be designated as Munshi and should be placed in Clerical Gr. III with effect from 9-10-1988.

This matter was discussed on 9-5-90, 3-9-90 and at Hqrs. level on 10-8-91. This matter was discussed in length and ultimately, both the parties agreed to settle the dispute on the following terms :

TERMS OF THE SETTLEMENT

1. Both the parties agreed that Sri Dinanath Singh is designated as Munshi and placed in clerical Gr. III with effect from 10-1-1992.

2. It is agreed that his seniority in clerical Gr. III will be counted from 9-10-88 for the purpose of promotional avenue however, he will not get any monetary benefit from 9-10-88.

3. It is agreed that the above settlement resolves all the disputes with respect to regularisation/promotion/gradation and seniority of Sri Dinanath Singh including wages/salary etc.

4. Both the parties agree that a copy of this settlement shall be sent to appropriate authorities for record.

Signature of Management Rep :

Sd/-

(S. P. Singh)

Dy. Chief Personnel Manager,
Barora Area.

Signature of Union/workman's Rep :

Sd/-

(Basudev Sarkar)

Br. Secy. RCMS

Phularitand Branch.

Sd/-

(Dinanath Singh)

workman of Phularitand
Colliery.

Witnesses :

1. Sd/- (Illegible)

2. Sd/- (Illegible)

Dated : 6-2-1992

cc:1. The A. I. C.(C), Dhanbad. (2) The RLC(C), Dhanbad

3. The Dy. CLC(C), Dhanbad (4) The Dy. CMB, Phularitand colly.

नई दिल्ली, 29 अप्रैल, 1992

का.अ. 1275.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 11) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, गैर-यौन कोयला लि. का फुलरिन्द टाउ कोयले के प्रवर्धन से संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार का 22-4-92 को प्राप्त हुआ था।

[फाइल नं. एन-12012/70/89-डी-2 (ए)]

श्री. के. वेणुगोपालन, डेस्क अधिकारी

New Delhi, the 29th April, 1992

S.O. 1275.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of Central Bank of India and their workmen, which was received by the Central Government on 22-4-1992.

[No. L-12012/70/89-D.II (A)]

V. K. VENUGOPALAN, Desk Officer

ANNEXURE

BEFORE SRI ARJAN DEV, PRESIDING OFFICER, CENTRAL GOVERNMENT, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 118 of 1989

In the matter of dispute :

BETWEEN

UP Maha Sachiv Central Bank Employees Congress
MIG-C-1241, Sector 7, Awasth Vikas Colony, Bajajipuram, Lucknow.

AND

Zonal Manager, Central Bank of India, 23 Vidhan Sabha Marg, Lucknow.

AWARD

1. The Central Government, Ministry of Labour, vide its Notification No. L-12012/70/89-D.II (A) dated (not clear) has referred the following dispute for adjudication to this Tribunal :—

Whether the action of the management of Central Bank of India in discharging from service Sri R. K. Sharma is justified? If not, to what relief is the workman entitled?

2. The admitted facts are that while Sri R. K. Sharma, the workman was working as Assistant Cashier-cum-Godown Keeper at Vivekanand Polyclinic Branch of the Bank, he was placed under suspension vide memo dated 31-7-84, copy Ext. W-1 by the Chief Manager. Thereafter he was served with chargesheet dated 31-5-85/3-6-86 copy Ext. W-9, issued by the Disciplinary Authority. The chargesheet contained the following charges against the workman—

On 21-7-84 Mr. Lalita Prasad a customer of the Branch presented a withdrawal for Rs. 100 drawn on his savings account No. 4024 for encashment. In the usual course when the withdrawal was being posted in the account it was found that there was insufficient balance of Rs. 12.57 only. When the matter was brought to the notice of Mr. Lalita Prasad he informed the bank official that he had already deposited in cash a sum of Rs. 2000 in his account on 14-7-84 and produced a counter foil of pay-in-slip dated 14-7-84 duly receipted and stamped. On scrutiny it was found that the receipt bears the initials of Mr. R. K. Sharma.

When the matter was investigated further it was found that the said pay-in-slip of Rs. 2000 was neither entered anywhere in cash scroll book of accounts section nor in the cash receipt book of cash department. It is understood that the party directly approached Mr. Sharma to deposit cash. Mr. Sharma after receiving cash as passed on the receipt voucher portion of the pay slip in question without entering it in cash received register maintained with him. Thus Mr. Sharma has defalcated Rs. 2000 received by him on 14-7-84 from Mr. Lalita Prasad in cash for crediting in his savings account No. 4024 with Polyclinic Branch.

Sri R. V. Dubey was appointed as E.O. by the Disciplinary Authority (hereinafter referred to as D.A.). After holding inquiry the E.O. gave his finding dated 21-4-86 copy Ext. M-5. He held the charges proved. Sri S. K. Gupta, the D.A. agreed with the findings given by the E.O. and proposed the dismissal from service of the workman vide his order dated 21-10-86, Ext. M-6. In pursuance of the notice regarding the proposed punishment issued to him, the workman alongwith his defence representative appeared before the D.A. and made their submissions. The D.A. however confirmed the punishment proposed by him vide his order dated 29-12-86 Ext. M-7. Against the order of punishment the workman preferred an appeal which was heard by Sri NSR Rao D.G.M. in his capacity as Appellate Authority. He dismissed the appeal vide his order dated 24-9-87 copy Ext. W-13 but converted the punishment awarded to the workman into one of discharge from service. The workman then preferred a mercy petition and on it an order copy Ext. M-2, was passed on 13-3-90 during the course of pendency of the present petition/case. The copy of this order was filed by the management with their application dated 20-4-90. The punishment was further modified as follows—

- (1) Stoppage of three increments permanently.
- (2) Period between his dismissed/discharge and reinstatement will be treated as leave on loss of pay.
- (3) The workman will not be allowed to act as cashier atleast for 5 years.

3. The Union which has espoused the case of the workman has challenged the order of punishment, and the order of suspension on a number of grounds. The Union alleges that the order of suspension was illegal since it was passed prior to the service of the charge-sheet upon the workman. It was further illegal and vindictive in the sense that Sri Laita Pd. the complainant, had withdrawn his complaint with 3-5 days of the lodging of complaint by him with the branch manager. It is further alleged by the Union that the findings given by the E.O. are not supported by the evidence adduced

at the inquiry. At the inquiry the bank did not examine the complainant. Further although the Disciplinary Authority who was not properly appointed and the E.O. were biased against the workman. In fact these authorities acted under the directions of the Vigilance Department. It is also alleged by the Union that the punishment awarded to the workman is quite harsh.

4. The case is contested by the management. According to the management the order of suspension was a perfect legal order. The management deny that Sri S. K. Gupta was not properly appointed as the D.A. of the workman. The management further plead that the finding given by the E.O. and accepted by the D.A. and confirmed in appeal by the Appellate Authority are not perverse but are based on evidence. The management deny that the D.A. and E.O. were biased in any way against the workman. In fact at no point of time during the departmental inquiry such a point was raised by the workman or his authorised representative. The management also deny that the D.A. and appellate authority had acted under the directions of the Vigilance Department.

5. In support of their respective cases both sides have led oral as well as documentary evidence. Whereas the Union has examined the workman, the management have examined Sri S. K. Jain, Regional Manager of the Bank at Lucknow.

6. In this case on 23-11-90, the following issues were framed—

1. Whether the inquiry against the workman was not conducted fairly and properly?
2. Whether the inquiry report given by the E.O. and confirmed by the Disciplinary Authority is perverse?
3. Whether the Disciplinary authority did not act independently while awarding the punishment as alleged in paras 9 and 13 of the claim statement?

Findings :—

7. Issue No. 3 :

During the course of arguments Sri R. C. Misra, the authorised representative for the Union did not press this issue. He also did not press the plea raised by the Union that Sri S. K. Gupta was not the properly appointed disciplinary authority so far as the workman was concerned. In para 4 of his statement in cross examination the workman has deposed that Sri S. K. Gupta Chief Manager was his Disciplinary Authority. He has also deposed that Sri N. S. R. Rao DGM was his Appellate Authority. Another statement made by him was that Chief Vigilance Officer is of the rank of General Manager. He expressed his ignorance on the point as to which officer of the Bank instructed the Zonal Office to discharge him from service. Hence issue No. 3 is decided against the Union.

8. Point No. 1 :

The only point argued by Sri Misra on this issue was that despite the fact that his defence representative during inquiry wanted to examine one Sri S. C. Mehrotra clerk in defence. He was not relieved by the management despite a letter in this regard having been written by the E.O.

9. I have examined this plea of Sri Misra in the light of the fact of the case and find no force in it. Firstly no such plea has been raised by the Union in the claim statement. Further from the proceeding of inquiry noted at pages 25, 26, 27 and 28 and what I could gather is that Sri S. C. Mehrotra who at that time was posted at Chowk Branch of the bank was to be produced for the sole purpose of proving the fact that it was he who refused to take delivery of the registered envelop containing the letter regarding the withdrawal of complaint by the complainant. This fact so far as what I understand was not of much importance. The letter in question was taken on record by the E.O. when tendered on behalf of the workman during inquiry. Similarly it has also been considered by E.O. in his inquiry report.

10. No other point has been urged on this issue by Sri Misra. Therefore finding no force in the plea raised by the Union I decide this issue as well against the Union.

11. Issue No. 3 :

On this issue it has been urged by Sri Misra that the complainant who was a material witness for proving the charge against the workman was not examined by the bank at the inquiry. According to him such a situation no reliance can be placed on the evidence which was adduced from the bank's side at the inquiry. The withholding of material evidence leads drawing of an adverse inference against the management. I do not dispute the legal position that a court will draw an adverse inference against a party

which fails to produce the material witness. I also agree that in the ordinary course Sri Lalita Prasad being the complainant should have been examined by the management at the inquiry. But at the same time I must observe that there may be circumstances in which the prosecutor may refrain from producing such a witness and these circumstances are—

1. If he has been won by the chargesheeted employee, or

2. If his presence cannot be procured.

In such situation a prosecutor is left with no alternative other than to prove the charge by other cogent evidence.

12. From the facts of the present case it appears to me that the complainant was won over by the workman. During the course of his arguments it was conceded before me by Sri Misra that such a complaint on the basis of which charges were framed against the workman was made by Sri Lalita Prasad who made the said complaint under a mistaken belief and sent a letter by post to the bank withdrawing his complaint.

13. Letter of withdrawal of complaint, as it appears from the inquiry proceeding was filed by the workman at the inquiry. Same was considered by the E.O. while giving his finding.

14. In para 10 of the written statement it has been pleaded by the management that after the delivery of such a letter was refused by some official of the bank, the letter alongwith the postal receipt of registration, would have been with the complainant. The question is how these documents came in the hands of the workman. Despite all this there is simple denial by the Union in its rejoinder. The Union has made no attempt to explain as to under what circumstances the workman got hold of this document. It shows that the workman was able to influence the complainant i.e. to say he was able to win him over of his side. In the circumstances the management would not have taken the risk of producing him as their own witness. It could also be that despite management's attempt to procure him, the complainant might have withheld himself from the witness box at the inquiry. So in the circumstances no adverse inference can be drawn against the management for the non production of the complainant. I will presently show why the complainant was not even produced by the workman himself in defence.

15. In the claim statement the Union has reproduced the letter dated 26-7-84 of the complainant that on 14-7-84 he had sent for deposit in his account of the complainant withdrawing his complaint. The facts stated by him are that on 14-7-84 he had sent for deposit in his account a sum of Rs. 2000 but the man through whom he had sent the money for deposit returned the whole of the amount alongwith papers to his wife and all of a sudden on receipt of the illness of his father went to her Maika, after placing the pass book and the papers of the bank in a bag. On 22-7-84, when he came to his own village he was informed by his wife that some of the currency notes were damaged (Kharab) the amount could not be deposited. In the absence of the knowledge of the said facts he had gone to the bank for withdrawal of Rs. 100 from his account on 21-7-84.

16. The whole of the defence set up in this letter gets blasted from the counter foil of the deposit form for Rs. 2000 bearing the initial and the stamp of the bank. Management witness Sri K. N. Seth a clerk has deposed before the E.O. as to under what circumstances, the counter foil was brought by the complainant and handed over to him. MW-2 Sri M. P. Katiyar and MW-3 Sri S. M. Mehrotra the two other officers of the bank have proved the initials of the workman on the counter foil. During the inquiry the workman could not sum up so much courage as to entry into the witness box and deny that the counter foil does not bear his initial. Even before me during arguments, Sri Misra, when specifically questioned about it, did not dispute the initial of the workman on the counter foil.

17. The question is how and under what circumstances the counter foil came in the hands of the complainant. I may state here that even at page 7 of his inquiry report the E.O. has written that the workman/defence representative has not disputed or denied the signatures of the workman on the counter foil which was submitted by the account holder Sri Lalita Prasad

18. There is a well known proverb that men may lie but the circumstances may not. Production of counter foil belies the facts alleged by the complainant in his letter of withdrawal of complainant. Had some of the currency notes damaged, the workman would not have issued the counter foil after affixing his initial and stamping it with the bank's stamp.

19. Hence I find no force in the contention of the Union that the findings given by the E.O. and accepted by the Disciplinary Authority are perverse or not based on evidence. The issue is, therefore, decided against the Union/workman.

20. We have seen above that during the pendency of the present case, the punishment awarded to the workman had already been reduced and he has been reinstated in service. In view of it, the question of interference by this Tribunal for exercising its powers u/s 11-A I. D. Act, does not arise.

21. In view of the findings recorded above, the action of the management which has been modified during the pendency of the case by means of order dated 13-3-90 copy Ext. M-2 is held as justified and legal.

22. Consequently the workman/Union is entitled to no relief.

23. Reference is answered accordingly.

ARJAN DEV, Presiding Officer

नई दिल्ली, 22 अप्रैल 1992

का.शा 1276:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 11) का धारा 17 के अनुसरण में, केन्द्रीय सरकार बहूला कोलिरी आफ़ मै. ई. सी. एल. के प्रवर्तन के संबंध नियंत्रकों और उनके कर्म-कारों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, आसन्तरोल के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-4-92 को प्राप्त हुआ था।

[संख्या एन-22012/261/89-आर्.आर. (सी-II)]

राजा लाल, ईस्क अधिकारी

New Delhi, the 22nd April, 1992

S.O. 1276.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bahula Colliery of M/s. E.C. Ltd. and their workmen, which was received by the Central Government on the 20-4-1992.

[No. L-22012(261)/89-IR (C. II)]

RAJA LAL, Desk Officer.

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL, ASANSOL

Reference No. 9/90

PRESENT:

Shri N. K. Saha, Presiding Officer.

PARTIES:

Employers in relation to the Management of Bahula Colliery of M/s. E.C. Ltd.

AND

Their Workmen.

APPEARANCES:

For the Employers.—Shri P. K. Das, Advocate.

For the Workmen.—Sri Sanjiv Banerjee, Representative of the Union.

INDUSTRY: Coal

STATE: West Bengal

Dated, the 2nd April, 1992

AWARD

The Govt of India in the Ministry of Labour in exercise of the powers conferred on them by clause (d) of sub-

section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, has referred the following dispute to this Tribunal for adjudication vide Ministry's Order No. L-22012(261)/89-IR (C. II) dated 8-2-1990.

SCHEDULE

"Whether the action of the Management of Bahula Colliery of M/s. Eastern Coalfields Ltd., in making anomaly in the fixation of pay of S/Shri N. B. Banerjee, N. M. Quaji and J. N. Das, Senior Clerks, is justified? If not, to what relief the concerned workman is entitled?"

2. Today (2-4-1992) Sri Sanjiv Banerjee, the representative of the union submits that he has no instruction to proceed with the case. The concerned workmen are also not present.

3. In view of the circumstances I have no other alternative but to pass a no dispute award in this case and accordingly a no dispute award is passed.

N. K. SAHA, Presiding Officer.

मई दिनांक, 22 अप्रैल, 1992

का.आ. 1277:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बांडवार सब एरिया प्राक एस.ई.सी. लि. के प्रबंधन के संबद्ध निोजकों और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबनपुर के पंचपट को प्रकाशित करता है, जो केन्द्रीय सरकार को 20-4-92 को प्राप्त हुआ था।

[संख्या एल-22012/330/91-आई.आर. (सी-)]
राजा लाल, डेस्क अधिकारी

New Delhi, the 22nd April, 1992

S.O. 1277.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bangbar Sub Area of S.E.C.L., Amlai and their workmen, which was received by the Central Government on the 20-4-1992.

[No. L-22012/330/91-IR (C. II)]

RAJA LAL, Desk Officer.

ANNEXURE

BEFORE HON'BLE SHRI V. N. SHUKLA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (M.P.)
Case No. CGIT/LC(R)(18)/1992

PARTIES:

Employers in relation to the management of Bangbar Sub-Area of S.E.C.L., Amlai and Bangbar Mines, P.O. Amlai Colliery, District Shahdol (M.P.) and their workmen, Premal Pandey, Pump Khalasi, Amlai Colliery and M. K. Jain, Driver, Bangbar Project, represented through the M. P. Koyla Mazdoor Sabha (HMS), Sohagpur Area, Dhanpuri, District Shahdol (M.P.).

APPEARANCES:

For Workman—Shri N. L. Pandey.

For Management—Shri G. K. Prasad.

INDUSTRY: Coal Mine DISTRICT: Shahdol (M.P.)

AWARD

Dated, 2nd April, 1992

This is a reference made by the Central Government Ministry of Labour, vide its Notification No. L-22012/330/91-IR (C-II) dated 8-1-1992, for adjudication of the following dispute:—

SCHEDULE

"Whether the action of the Sub-Area Manager, Amlai and Bangwar Sub-Area of S.E.C. Ltd., P.O. Amlai Colliery, Distt. Sahdol, in dismissing Shri Premal Pandey, Pump Khalasi, Amlai Colliery and M. K. Jain, Driver, Bangwar Project from the services of

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the Company w.e.f. 23-1-1991 is legal and justified? If not, to what relief are the workman entitled to?"

2. The parties instead of filing their respective statement of claim and documents etc. filed a photo copy of settlement arrived at between the parties on 20-3-1992. They have also verified the terms of settlement before this Court. The terms of Settlement are as under:—

"After prolonged discussions at various levels between the Union and the Management, it was decided to settle the matter mutually by re-employing three persons, out of four, namely S/Shri Premal Pandey, Ex. Pump Khalasi, Shri Mahendra Kumar Jain, Ex.: Driver, Lalji Tripathi, Ex. Driver.

Terms of Settlement

- (1) The above named three persons would be re-employed and that their continuity of service would be granted, subject to their conduct during the period of one year from the date of their employment.
- (2) The period of their absence from the date of their dismissal to the date of their resumption on duty will be treated as DIES NON i.e. the Principle of NO WORK NO PAY, subject to the condition, laid down in para (1) above.
- (3) The respective incumbents will tender at unconditional apology before their resumption on duty and would also undertake that on the event of their conduct during the period of one year, as referred above, if there is no improvement, for that matter, their continuity in service, will be decided accordingly by the Management.
- (4) The above persons on resumption would be posted out of Sohagpur Area, i.e., two at Johilla Area & one at J&K Area.

3. I have gone through the terms of settlement arrived at between the parties in respect of three persons named above. This reference relates to S/Shri Premal Pandey and M. K. Jain. The terms of Settlement are just, fair and in the interest of the workmen concerned. I therefore record my award in terms of settlement with respect to workmen under reference. No order as to costs.

V. N. SHUKLA, Presiding Officer.

मई दिनांक, 22 अप्रैल, 1992

का.आ. 1278:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सोहागपुर एरिया प्राक डेक्कू.सी.एल. के प्रबंधन के संबद्ध निोजकों और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबनपुर के पंचपट को प्रकाशित करती है, केन्द्रीय सरकार को 20-4-92 को प्राप्त हुआ था।

[संख्या एल-22012/6/84-डी-III (बी) डी-V फर्न.आर. सा(II)]
राजा लाल, डेस्क अधिकारी

New Delhi, the 22nd April, 1992

S.O. 1278.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Sohagpur Area of WC Ltd. and their workmen, which was received by the Central Government on the 20-4-92.

[No. L-22012/6/84-D.III(B)/D.V/IR(C. II)]

RAJA LAL, Desk Officer

ANNEXURE

BEFORE HON'BLE SHRI V. N. SHUKLA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (M.P.)

Case No. CGIT/LC((R)(23)/1985

PARTIES:

Employers in relation to the management of Sohagpur Area of Western Coalfields Limited, P.O. Chanpuri, district Shahdol (M.P.) and their workman, Sri

K. K. Dutta Mining Sirdar, Railway Colony, Burhar Colliery, P.O. Dhanpur, Distt. Shahdol (M.P.).

APPEARANCES :

For Workman.—Shri S. K. Rao, Advocate.

For Management.—Shri R. Menon, Advocate.

INDUSTRY : Coal Mining. DISTRICT : Shohdol (M.P.).

AWARD

Dated, April, 6th, 1992

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-22012(6)/84-D.III(B) @ D. V. Dated 26th March, 1985, for adjudication of the following dispute :—

SCHEDULE

“Whether the action of the management of Western Coalfields Limited, Sohagpur Area in not allowing Shri K. K. Dutta, Mining Sirdar to join his duty with effect from 21-4-82 is justified? If not, to what relief the workman is entitled to?”

2. Facts leading to this case are that the workman, Shri K. K. Dutta, was appointed as Underground Time Rated Mazdoor vide order dated 5-11-1975 and subsequently he was promoted as Mining Sirdar in the year 1979. He was working in Chachai underground Mines and vide order dated 20-9-1981 was transferred to Jamuna Group of Mines with immediate effect by the Personnel Manager of Sohagpur Area and accordingly he was relieved on 2-8-1981 by the Manager, Chachai Underground Mines.

3. The workman says that he was an active Union Leader, he was Organising Secretary of the IMMOSSA. He had also made certain demands of the victimised workmen and hence he was transferred from Chachai Underground Mines to Jamuna Group of Mines.

4. Due to the aforesaid transfer he sustained a great mental and physical shock and fell sick and during the period of his treatment Doctors also found that he was suffering from T. B. and advised him to take long treatment for the cure of T. B. He sent his sick report as well as information informing the Superintendent of Mines, Jamuna Group of Mines, that he was unable to join duties for the reasons that he was sick from 7-10-1981 which was acknowledged by the Superintendent of Mines on 13-10-1981. General Secretary of the Koyala Mazdoor Sabha vide his letter dated 16-10-1981 once again requested the General Manager of Sohagpur Area to cancel the transfer orders but to no effect. The transfer was objected to having not been made with the consultation of the General Secretary. The same was illegal. However, after he was declared fit by the Doctor he reported for duty on 18-4-82 and requested the management of Jamuna Group of Mines to allow him to discharge his duties, but he was not permitted to join. He again requested the management on 21-4-1982, but to no effect. Hence the workman raised an industrial dispute on 15-10-1982. The notice was issued by the Asstt. Labour Commissioner on 29-4-1982. The management became annoyed and treating him as absentee he was dismissed from service by the Dy. Personnel Manager who was not the competent authority to dismiss him. The order of dismissal is liable to be set aside on the following grounds :—

- (A) Because the applicant after declared fit by the Doctors was persistently making efforts for joining the duties but his joining was not accepted by the Manager Jamuna Colliery nor by the Mines Manager Chachai Underground Mines.
- (B) Because on the date of his persisting efforts made, the applicant was in the services and till that date no such dismissal orders were issued by the management and therefore, it was the duty of the management to allow him for duties.
- (C) Because the applicant was a permanent employee before his dismissal a fair departmental enquiry should have been held but instead of holding any departmental enquiry, issuing any charge-sheet, issuing any show cause notice, his services were dismissed due to his Union activities and to victimise him.
- (D) Because the services of any permanent employee could not be dismissed without any departmental enquiry and therefore, the dismissal from the services of the applicant is in violation of principles of natural justice.

- (E) Because the applicant's services are not at all governed by the Standing Orders 17(1) and therefore, no such automatic dismissal can be, because the applicant was persistently making the efforts for joining in duties.
- (F) Because Clause 17(2) of the Standing Orders does not apply in the case because the applicant fell sick immediately informed the Manager of Jamuna Group of Mines, vide document No. 12, which was duly acknowledged by D/14 by the Manager.
- (G) Because the applicant's services were dismissed because of his Union activities that too when he approached the Asstt. Labour Commissioner for his joining.
- (H) Because his services were dismissed during the pendency of the conciliation proceedings before A.L.C. without taking any approval under Sec. 33(2)(b) of the I.D. Act.
- (I) Because under various judgement of the Supreme Court as well as High Court, the applicant's services can not be dismissed without holding the departmental enquiry (Robert D'Souza Vs. Southern Railway 1982 LIC p. 811).
- (J) Because before the dismissal of the services of the applicant he was not paid any retrenchment compensation as envisaged under the law. Hence the termination order is being illegal, void and not in accordance with law.
- (K) Because the applicant after declaring fit by the doctors, vide D/16, D/17 and D/18 requested the management to allow him for duties which was denied by the management and his joining was not accepted.
- (L) Because in any case not giving him joining and terminating his services being in the knowledge that the applicant was joining is highly illegal and not in accordance with law.
- (M) Because the termination is without any proper enquiry hence also is liable to be set aside.
- (N) Because the termination order is issued in a bias manner and that too only to victimise the applicant.

Thus his dismissal from service is illegal. He is entitled to be reinstated with full back wages.

5. The management says that the transfer of Sri K. K. Dutta has nothing to do with his trade union activities. It was a transfer in a natural course. He was required to join at Jamuna Group of Mines within seven days of relieving him from Chachai Group of Mines, but he did not join despite the fact that he was holding a statutory post and was responsible for the safety and the working of the mines as well as the production. Instead he submitted a medical certificate of a registered medical practitioner to the effect that he is sick from 28-9-1981 to 14-10-1981.

6. Shri Dutta was residing at the Company's Quarter No. TB/13 which was unauthorisedly occupied by him which was very close to the Central Hospital, Burhar. If he was really sick he should have taken treatment at the Central Hospital, Burhar instead by a private registered medical practitioner. Moreover, he was to join duties with effect from 28-9-1981. The entire circumstances create a suspicion and the management has reason to believe that Shri Dutta was not sick and was avoiding joining duties at Jamuna Group of Mines deliberately.

7. Management, therefore, vide their letter dated 23/26th November, 1981 directed Shri Dutta to report to the Chief Medical Officer, Burhar, Central Hospital for getting himself medically examined. He was further informed that in case he failed to report for medical examination it will be presumed that he is absenting from duty unauthorisedly and the provisions of Standing Orders shall automatically become effective. Shri Dutta neither returned for duty nor did he appear before the Chief Medical Officer for medical examination. He was informed about the position vide letter dated 8-5-1982, but he failed to submit any satisfactory explanation for his absence from 15-10-1981 to 20-10-1981 and thereafter from

30-10-1981 till he was treated as a deserter. He is, therefore, not entitled to any relief. Management has prayed that in case D.e. was necessary in the instant case it should be permitted to lead evidence to prove the misconduct of the workman. Accordingly the workman is not entitled to any relief.

8. Reference was the issue in this case.

FINDINGS WITH REASONS :

9. Parties have led their respective evidence in support of their respective case. The workman has proved documents Ex. D/1 to Ex. D/21 and the management proved documents Ex. M/1 to Ex. M/6 and Ex. M/1A and Ex. M/2A. Workman has examined himself while the management has examined U. P. K. Singh (M. W. 1) Dy. Personnel Manager at Sohagpur area in the year 1981-82.

10. Ex. D/1 is the initial appointment letter. Ex. D/2 shows that he was authorised as Shot Firer. Ex. D/3 is a certificate of Character of the workman. Ex. D/4 is a letter of the workman to the management to look into the case of Sabir Ali. He is said to be the Secretary of Koyla Mazdoor Sabha. Ex. D/5 is reply of the management to Ex. D/4. Ex. D/6 is another representation made by Shri Dutta on behalf of Sabir Ali. Ex. D/7 is a Pamphlet. Ex. D/8 is a certificate of the Indian National Mines Overman Sirdars & Shot Firers Association (INMOSSA). Shri Dutta has been shown as Organising Secretary of Chachai Colliery. This is dated 1-9-1981. Ex. D/9 is letter dated 20-9-1981 according to which the workman was transferred from Chachai Colliery to Jamuna Group of Mines. Ex. D/10 is the letter of the management asking him to report for duty at Jamuna Colliery. Ex. D/11 is a letter dated 4-10-1981 written by the workman to the General Manager asking him to withdraw the transfer order. Ex. D/12 is a letter of information about the sickness of the workman. It is dated 7-10-1981. It has to be noted that vide letter Ex. D/11 dated 4-10-1981 the workman never raised the point that he is sick and three days thereafter he suddenly sent sick report. Ex. D/13 is postal registered receipt. Ex. D/14 is also postal receipt. Ex. D/15 is the letter of the General Secretary dated 16-10-1981 calling upon the general Manager to cancel the order of transfer and threatening the General Manager that in case the transfer of the workman is not withdrawn drastic action shall be taken causing loss of production in industry. This letter nowhere shows that the workman was sick. Ex. D/16 is another letter dated 18-4-1982 according to which the workman reported for duty. Ex. D/17 is a letter dated 21-4-1982 according to which the workman had asked the management to treat his case sympathetically. Ex. D/18 is another letter of the workman dated 24-4-1982 to consider the case of the workman sympathetically. Ex. D/19 is the letter dated 15-10-1982 according to which he has raised the dispute before the A.L.C. (C), Shahdol for cancellation of the order of his transfer on the ground that his mother is seriously suffering and he is to look after his mother (Para 5 of the letter). Ex. D/20 is the letter dated 29-4-1982 according to which the A.L.C. was informed by the Management that the charter of demands submitted by the Union is under discussion with the management. Ex. D/21 is the letter of the management to the workman dated 8-5-1982 showing that he is absconding. This letter also shows that the workman was asked to personally appear before the Chief Medical Officer, CIC, Central Hospital, Burhar, but he did not appear.

11. Now coming to the documents of the management, Ex. M/1 is the Medical Certificate given by the workman on 29-10-1981 according to which he was suffering from Malaria fever from 28-9-1981 to 14-10-1981 and thereafter from enlargement of liver. Ex. M/2 is another Medical Certificate dated 14-10-1981 according to which the workman, Shri Dutta, is suffering from Malaria from 28-9-1981 and he was advised rest from 28-9-1981 to 14-10-1981. Ex. M/3 is the letter dated 23/26 November, 1981, according to which the workman was directed to appear before the Medical Officer. Ex. M/4 is another letter dated 8-5-1982 which shows that the workman has absconded from duty for the reasons given in the letter. Ex. M/5 and Ex. M/6 are transfer order and relieving order.

12. Now the question is as to what should be gathered from the evidence and conduct of the workman. He was a trade union leader alright. He had raised a dispute alright before the A.L.C. (C) Shahdol.

13. Ex. D/19 dated 15-10-1985 refers to certain dispute raised by the workman, but when this dispute was raised is not clear. He was, however, declared absconder on 8-5-1982 as per terms 17(ii) of the Certified Standing Orders.

14. There is a reference to certain conciliation going on in relation to 23 charter demands as can be gathered from the letter Ex. d/20 dated 29-4-1982. There is nothing to show that whether the dispute of this workman was also raised before the A.L.C.(C) in these 23 charter demands. Thus it can not be said that the workman was declared absconder while the dispute was pending before the A.L.C.(C) Shahdol. That apart, if the workman was aggrieved by the order of the management by not permitting the workman to join or declared him absconder the workman could have proceeded under Section 33-A of the I.D. Act before the Authority before whom the alleged dispute was pending when the workman was declared deserter and his services were accordingly terminated. Section 33-A provides an expeditious remedy for contravention of any of the provisions of Section 33 by any employer. An employer who contravenes Section 33 is liable for punishment U/s. 31(1). This may or may not deter an employer from contravening Section 33. What is, however, of interest to an aggrieved workman is that the penalty U/s. 31(1) does no good to him. Section 33-A envisages a counter action by a workman to a contravention of Section 33 by his employer. The counter action is to be initiated by a workman or workmen who may be affected by a contravention of any provisions of Section 33, and consists of a complaint in writing to the authority before whom a proceeding is already pending. (See Commentaries on Industrial Disputes Act, 1947 by Dr. H. G. Abhyankar, First Edition 1991, page 509).

15. Thus if there was any remedy it was under Section 33-A of the I.D. Act before the Conciliation Authority and this matter cannot be raised here.

16. The workman has pleaded that he was suffering from T.B. This is what he has stated in para 4 of his Affidavit, but there is no Certificate to show that he ever suffered from T.B. On the other hand, letters referred to above show that earlier the workman and the Union had never pointed out that his transfer be cancelled for the reason that he is suffering from T.B. or he is suffering from any other disease whatsoever, rather a threatening came from the Union to cancel the transfer order and to paralyse the production.

17. When the workman was cross-examined he could not say in Para 14 of his deposition as to from which date he got the treatment. In para 13 of his deposition he said that he did not remember from which Doctor he took treatment at that time. He did not mention that he was suffering from Malaria or he had lever problem. He admits in para 17 of his deposition that the Colliery Hospital is 1 Km. away from his house where he was residing, even then he did not take care to get himself examined by the Colliery Doctor despite direction of the management. The workman obviously patently avoided to join his duties on false and frivolous grounds. His Certificate that he was suffering from Malaria or Lever problem are false to his own knowledge. Remaining absent on false pretext is a misconduct by itself and if further D.E. is called for this Tribunal already holds from the record that the workman had misconducted himself. Even otherwise also no further enquiry is necessary.

18. It would be benefitting to an important office bearer of the Union that either he would have adopted the legal recourse instead of taking false and frivolous pleas for non joining his duties or threatening the management through the Union or he should have joined and prayed for transfer showing that his transfer is illegal. In that case, he would have deserved sympathy. But he chose to give threats to the management through the Union, misusing the Union to the extent of dire consequences of adversely affecting the production when he himself absented on false and flimsy grounds. It should be an eye opener to all concern that such types of flimsy grounds and dire threatening should not be availed of in the interest of the national economy and production.

19. The workman has been rightly not permitted to join. He has been rightly declared that he has abandoned his service. He is not entitled to any relief. Reference is accordingly answered as follows:—

The action of the management of Western Coalfields Limited, Sohagpur Area, in not allowing Shri K. K. Dutta, Mining Sirdar to join his duty with effect from 21-4-1982 is justified. He is not entitled to any relief. No order as to costs.

V. N. SHUKLA, Presiding Officer.

Dated : 06-04-1992.

नई दिल्ली, 22 अप्रैल, 1992

का.प्रा.1279:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार जमुना सब-एरिया आफ एम.ई.सी.एल. के प्रबन्धन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-4-92 को प्राप्त हुआ था।

[संख्या एल-22012/53/89-आई.आर. (सी-II).]

राजा लाल, डेस्क अधिकारी

New Delhi, the 22nd April, 1992

S.O. 1279.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Jamuna Sub Area of S.E.C. Ltd. and their workmen, which was received by the Central Government on 20-4-92.

[No. L-22012/(53)/89-IR (C.II)]

RAJA LAL, Desk Officer

ANNEXURE

BEFORE HON'BLE SHRI V. N. SHUKLA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR (M.P.)

Case No. CGIT/LC(R)(217)/1989

PARTIES:

Employers in relation to the management of Jamuna Sub-Area, M/s. S.E.C.L., Post Jamuna Colliery, District Shahdol (MP) and their workman, Shri Harilal General Mazdoor, represented through the Rashtriya Koyla Khadun Mazdoor Sangh, Jamuna and Kotma Area, Post Jamuna Colliery, District Shahdol (MP).

APPEARANCES:

For Workman—None.

For Management—Shri A. K. Shasi, Advocate.

INDUSTRY : Coal Mine DISTRICT : Shahdol (M.P.)

AWARD

Jabalpur, the 2nd April, 1992

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-22012(53)/89-IR(C.II) dated 26-10-1989, for adjudication of the following dispute:

SCHEDULE

"Whether the action of the Management of Jamuna Sub-Area of M/s S.E.C. Ltd. in terminating the services of Sri Harilal, General Mazdoor, is justified? If not, to what relief the workman concerned is entitled?"

2. The reference was registered on 3-11-1989 and 2-1-1990 was fixed for filing their respective statement of claim etc. by the parties. None appeared on behalf of the parties on that date. They were again noticed. On 28-3-1990 Shri C. K. Mishra appeared for the workman and filed statement of claim for the workman. Management was granted time. On 30-4-90, 29-5-90 and 20-7-90 workman did not appear and the management did not file the written statement. The case was posted on 15-10-90, but nobody appeared. On 2-1-1991 again none appeared. After a number of adjournment granted to the management, statement of claim was filed on behalf of the management on 25-6-91 on which date none appeared on behalf of the workman. Therefore the workman was again noticed fixing 12-9-91. Even then the workman did not care to appear before this Court and contest the case.

3. From the above conduct of the workman it appears that he has no interest in the proceedings. I therefore pass a No Dispute Award in the case and make no order as to costs.

V. N. SHUKLA, Presiding Officer.

नई दिल्ली, 22 अप्रैल, 1992

का.प्रा.1279:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार लिब्रेरी सब-एरिया आफ एम.ई.सी. लि. के प्रबन्धन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-4-92 को प्राप्त हुआ था।

[संख्या एल-22012/79/83-डी-IV (सी)]

राजा लाल, डेस्क अधिकारी

New Delhi, the 22nd April, 1992

S.O. 1280.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bijuri Sub Area of S.E.C. Ltd. and their workmen, which was received by the Central Government on 20-4-1992.

[No. L-22012/79/88-D.IV(B)]

RAJA LAL, Desk Officer

ANNEXURE

BEFORE HON'BLE SHRI V. N. SHUKLA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR (M.P.)

Case No. CGIT/LC(R)(7)/1989

PARTIES:

Employers in relation to the Management of Bijuri Sub-Area, S.E.C.L., Post Bijuri Colliery, District Shahdol (M.P.) and their workmen represented through the General Secretary, M.P. Koyala Mazdoor Sabha (HMS), Post South Jhagra-Khand Colliery, District Surguja (M.P.).

APPEARANCES:

For Workmen/Union—Shri R. N. Shukla, Advocate.

For Management—Shri P. S. Nair, Advocate.

INDUSTRY : Coal Mine. DISTRICT : Shahdol (MP)

AWARD

Jabalpur, the 2nd April, 1992

This is a reference made by the Central Government in the Ministry of Labour vide its Notification No. L-22012/79/88-D-4(B) dated 3rd January, 1989, for adjudication of the following dispute:—

Terms of Reference

"Whether the execution of earth work in open excavation for proposed Beharaband Pilot Project of Bijuri Sub-Area, though contractor workers fell in the categories of operation in coal mine in which employment of contract labour is prohibited by Notification No. S.O. 488 dated 1-2-1975 Government of India. If so, whether the workman employed by Sri Ashok Kumar Patni, Contractor engaged by the management of Bijuri Sub Area for the purpose of earth work in open excavation for proposed Beharaband Pilot Project at Bijuri sub Area of SECL, can legally claim the status of direct workers employed by the management Bijuri Sub Area of Hasdeo Area of SECL? If so, to what relief these workers are entitled and from what date?"

(List of workmen is annexed).

(List of workmen was sent by the Ministry vide letter No. L-22012/79/88-D-4(B)/IR (C-II) dated 24th

December, 1990. The same is annexed to this Award).

2. Facts leading to this case are that the workmen concerned were deployed by one Contractor, Shri Ashok Kumar Patni, who was engaged by the management of Bijuri Sub-Area for the purpose of earth work in open excavation for proposed Beharaband Pilot Project at Bijuri Sub-Area of M/s S.E.C. Ltd. The workman had claimed the status of direct workers employed by the management of Bijuri Sub-Area of M/s. S.E.C. Ltd. in the light in Notification No. S.O. 488 dated 1-2-1975 issued by the Government of India.

3. It is alleged that the said Notification prohibits the contract workers fall in the categories of operation in coal mines. The workmen concerned are doing the job of excavation of incline which is a prohibited category of work and the management could not employ a contractor, hence the workmen should be treated as the workmen of the management and they be taken on the Company Roll. They have further stated that they are entitled to be paid wages of Cat. I wages as per N.C.W.A. III. As per Notification, as alleged by the Union in its statement in para 9 and not denied by the management following category of work has been prohibited to be carried out through the contract labour in all the coal mines :—

- (1) Raising or Raising-cum-selling of coal;
- (2) Over burden removal and earth cutting;
- (3) Coal loading and unloading;
- (4) Soft coke manufacturing.
- (5) Driven of stone drifts and miscellaneous stone cutting inside the mine.

4. The workmen have further alleged that they were employed in the mine owned by M/s S.E.C. Limited for work under the direction, supervision, guidance and instructions of the Manager. Total supervision of the workers were by the management of S.E.C. Limited. The employment of a contractor has only been shown with a view to pay less wages to the workers. They have been employed for the work of coal mines and for no other work. The contractor had no say in the matter and was fully and completely bound by the instructions of the management of S.E.C. Limited. The entire work was supervised by the management and the payment was only made thereafter. They have worked from May 1985 to January 1987 i.e. for more than 400 days. Their termination is unjustified and violative of the provisions of S. 25-F etc. and onest in the eye of law. There was hostile discrimination among the employees. The S.E.C. Limited has employed several hundreds workers after termination of the employees. The workmen have accordingly prayed as follows :—

- (i) Difference of wages from May, 85 to Jan. 87 in accordance with NCWA-III.
- (ii) reinstatement with back wages from Jan. 87.
- (iii) Interest on the amount due.
- (iv) Compensation for physical, mental and financial suffering.

5. In the rejoinder the workmen have stated that the management has given a contract for earth work in open excavation, which means earth cutting. This excavation is for making the incline to reach underground. This is a part and parcel of work connected with raising of coal; hence they are entitled to be permanently employed by the management.

6. Management on its part has stated that the Union is not entitled to represent the individual concerned. The work awarded to the contractor does not fall in the category of operation in coal mines. The Circular issued by the Government of India, Ministry of Labour, in February 1975 prohibits only 5 categories of jobs in which engagement of contractor is prohibited. These categories are—

- (a) raising and raising cum selling of coal.
- (b) loading and unloading of coal into the wagons on manual basis.
- (c) over burden removal for excavation of coal.

- (d) manufacturing of short coke; and
- (e) driving of drift.

7. The workmen engaged by the above named contractor are not engaged in any of the above mentioned jobs. The Union statement is mischievous. The claim is false. According to the definition of Mines as given in the Mines Act any excavation or operation of less than Mtrs. depth and having less than 2 outlets, is not a mine; hence workmen engaged for earth cutting etc. is not at all connected for mining work as claimed by the Union. Management of Bijuri Sub-Area is not at all responsible for regularisation or absorption of any of the contractor workers whether they have completed 190/240 days attendance or not. Since earth cutting is not one of the prohibited categories in which engagement of contractor workers is prohibited, the management was within its right to award the same to the contractor. There is no violation of law whatsoever. The workmen employed by the contractors cannot claim the status of direct workers employed by the management of Bijuri Sub-Area. The contractor engaged for job has already been registered and has obtained licence from the Licensing Authority as per Contract Labour (Regulation & Abolition) act and the principal employer is also registered under the said Act, as such there is no violation of the provisions of contract Labour (R&A) Act. Workmen are not entitled to any relief.

8. In the rejoinder the management has stated that in open cast mines, overburden removed and coal is extracted. This is a simple process. As far as underground mining is concerned incline has to be constructed to reach the underground prior to the mining operation. After incline is constructed, mining operation starts. This preliminary stage of work is not prohibited by the Notification. Act has to be interpreted keeping in view of its object. Merely because it is in the mining lease area held by the S.E.C. Limited it cannot be deemed to be a prohibited work. There is no violation of any law and as pointed out the workmen are not entitled to any relief whatsoever.

9. Reference was the issue in the instant case.

FINDINGS WITH REASONS :

10. Various points such as reemployment, categorisation, whether the workmen were workers of the principal employer or not have been raised but they are not points in reference. Hence I will deal with the only point of reference and also ancillary issues arising therefrom.

11. Management has proved five documents, Ex. M/1 to Ex. M/5 and has examined S. D. Tripathi as M.W. 1. The workmen on their part examined witnesses viz. W.W. 1, Parasnath, W.W. 2, Dadni, W.W. 3, Bala Singh, W.W. 4, Nathuram, W.W. 5, Ramlal, W.W. 6, R. N. Chaturvedi, W.W. 7, Ramlav Ram and W.W. 8, Nathulal Pandey. All these witnesses for the workmen have stated that first they worked for removing earth and thereafter in order to dig the incline cut the earth.

12. M.W. 1 S.D. Tripathi in his cross-examination has admitted in para 9 that these workmen had worked for starting the mine. He has further admitted in para 11 of his deposition that these workmen had worked in the mine where there are inclines and for the purpose of constructing the incline the earth cutting is required. He has further stated in para 12 of his deposition that in open cast mining overburden is removed i.e. the earth is cut and removed. He has further stated in para 13 of his deposition that these workmen had worked for preparing the mine, incline and for raising the production. He has further admitted in para 14 of his deposition that in Hasdeo Area contract labours have been regularised, but they are only gota makers.

13. Voluminous case law has been cited before me including the photo copy of the relevant Notification by the workmen. Category III of the said Notification runs as under :—

“Overburden removal and earth cutting.”

As pointed out above both these work have been performed by the contractor labours which is obviously prohibited by the alleged Notification. That apart, S. 2(h)(ii) and (vii) of mines Act are worth noting. Thus the work of these workmen comes within the definition of Section 2(h) and they can be said to be employed in mine. There is voluminous evidence that these workmen had worked not only within the

knowledge of the management but under the direct supervision of the management. It is not understandable as to how these workmen are not covered by the said Notification.

14. The Notification under reference is not in question. The validity of the notification is not in question. The question now remains to be answered is as to what is the effect of my finding that the notification applies to these workmen.

15. Now we refer to Section 10 of the Contract Labour (Regulation and Abolition) Act, 1970 which runs as under :—

"10. Prohibition of employment of contract labour.—

- (1) Notwithstanding anything contained in this Act, the appropriate Government may, after consultation with the Central Board or, as the case may be, a State Board, prohibit by notification in the official Gazette, employment of contract labour in any process, operation or other work in any establishment.
- (2) Before issuing any notification under sub-section (1) in relation to an establishment, the appropriate Government shall have regard to the conditions of work and benefits provided for the contract labour in that establishment and other relevant factors, such as :—
 - (a) whether the process, operation or other work is incidental to, or necessary for, the industry, trade, business, manufacture or occupation that is carried on in the establishment;
 - (b) whether it is of perennial nature, that is to say, it is of sufficient duration having regard to the nature of industry, trade, business, manufacture or occupation carried on in that establishment;
 - (c) whether it is done ordinarily through regular workmen in that establishment or an establishment similar thereto;
 - (d) whether it is sufficient to employ considerable number of whole time workmen.

Explanation.—If a question arises whether any process or operation or other work is of perennial nature, the decision of the appropriate Government therein shall be final."

16. The validity of the notice having not been questioned, it can be said without any doubt that the said notification has given due consideration of the factors given in sub-section (2) of Section 10 of the Contract Labour (Regulation and Abolition) Act, 1970. That apart, there is voluminous evidence to prove these facts which cannot only be gathered from the testimony of the witnesses led by the workmen, but from the cross-examination of M.W. 1, S. D. Tripathi.

17. Referring to the case of Sankar Mukherjee and others Vs. Union of India and other (AIR 1990 SC p. 532), we find that in that case there was notification prohibiting employment of contract labour in departments of iron and steel company under Section 10 of the Contract Labour (Regulation and Abolition) Act, 1970 (hereinafter referred to as the Act), the benefit of the notification granted to the workmen in bricks department doing the work of cleaning and stacking of bricks and other allied jobs, but this benefit was not extended to the workmen of the same department doing the jobs of loading and unloading of bricks. The Supreme Court held that the Act is an important piece of social legislation for the welfare of labourers and has to be liberally construed. While concluding, the Supreme Court observed as thus in para 10 of the judgment :—

"10. We, therefore, see no justification for excluding the job of loading and unloading of bricks from wagons and trucks from the purview of the notification dated February 9, 1980. We allow the writ petition and strike down the words 2 except loading and unloading of bricks from wagons and trucks in paragraph 9 of the said notification issued by Government of West Bengal being discriminatory and as such violative of Article 14 of the Constitution of India. We direct that the petitioners and other workers doing the job of loading and unloading of bricks from wagons and trucks in the Brick Department be treated at par with effect from the date of notification with those who are doing the job of cleaning and

stacking in the said department. It is further directed that the workmen doing the job of loading and unloading who have been retrenched during the pendency of the writ petition be put back into service with all back wages and consequential benefits. There shall be no order as to costs."

18. Thus in this case Supreme Court went ahead to apply the notification as also to put back the workmen in service with all back wages and consequential benefits who have been retrenched during the pendency of the writ petition.

19. In the case of Catering Cleaners of Southern Railway Vs. Union of India and another and others (Writ Petition No. 19/86, 37/87) decided on 4th February, 1987 the Supreme Court held, despite the fact that the workmen in question were not notified to be covered under Section 10 of the Act, it directed as follows :—

"10.Without waiting for the decision of the Central Government the administration of the Southern Railway will be free, of its own motion to abolish the Contract Labour system and to regularise the services of those employed in the work of cleaning catering establishments and pantry cars in the Southern Railway. In any case, the administration of the Southern Railway will refrain, until the decision of the Central Government under S.10 from employing Contract labour. The work of cleaning catering establishments and pantry cars will be done departmentally by employing those workmen who were previously employed by the Contractor on the same wages and conditions of work as are applicable to those engaged in similar work by the Western Railway. If there is any dispute whether an individual workman was or was not employed by the Contractor the dispute shall be decided by the Deputy Labour Commissioner, Madras. Any further direction may be sought, if necessary, from the Madras High Court. If the Central Government do not finally decide the question within six months from today, the Southern Railway administration will within three months thereafter absorb the workmen into their service and regularise their services.

20. I have already pointed out that independently also this Court, from the evidence on record, can hold that these workmen were the workmen of the principal employer and these labourers were engaged by the contractor for doing the job of principal employer.

21. From the above discussions, it would follow that the workmen have been deployed as contract labourers after the date of notification hence they would become the employee of the principal employer and as such they should accordingly be regularised with the consequential benefits arising therefrom. These workmen are said to have been deployed from May 1985 (para 16 of the statement of claim) and they claim difference of wages from May 1985 to January 1987, the difference of wages be accordingly awarded to them.

22. The workmen are said to have been retrenched from January 1987, the reference was certainly not pending then. The question is whether the relief of reinstatement can be granted to the workmen under this reference. The law on this point is very clear and the Court shall certainly not go beyond the order of reference. I need not go into the details of case law on this point.

23. The question then arises as to whether this relief of reinstatement can be granted within the ambit of matter 'incidental' to the order of reference. Section 10(4) of the I.D. Act, 1947 runs as under :—

"Where in an order referring to an industrial dispute to a Labour Court, Tribunal or National Tribunal under this section or in a subsequent order, the appropriate Government has specified the points of dispute for adjudication, the Labour Court or the Tribunal or the National Tribunal as the case may be shall confine its adjudication to those points and matters incidental thereto."

24. The word "incidental" means according to Webster's New World dictionary: "Happening or likely to happen

as a result of or in connection with something more important : being an incident; casual, hence, secondary or minor, but usually associated." In the words of Mitter, J., "something incidental to a dispute must, therefore, mean something happening as a result of or in connection with the dispute or associated with the dispute. The dispute is a fundamental thing while something incidental thereto is an adjunct to it. Something incidental, therefore, cannot cut at the root of the main thing to which it is an adjunct (Delhi Cloth & General Mills Co. Ltd. Vs. Their Workmen-1967-I-LLJ 423 (427)(SC). A point is incidental to another point when the former necessarily depends upon the other. 'Incidental' implies a subordinate and subsidiary thing related to some other main or principal thing requiring casual attention while considering the main thing. It is obvious, therefore, that the matters which require independent consideration or treatment and have their own importance, cannot be considered as incidentally'. The words "matters incidental thereto" should not be interpreted so as to give vague and indeterminate jurisdiction to the tribunal, especially over independent matters Workmen of British India Corporation Ltd. Vs. British India Corporation India Ltd.-1965-II-LLJ p. 433(SC). A matter which is independent in one context, may become subsidiary in another matter in a different context. It all depends how and under what circumstances it arises. In other words, the question whether the adjudication of one matter is incidental to the adjudication of another matter depends on the facts of the case, the pleadings of the parties and the issues which properly arise for determination on the pleadings. (See O. P. Malhotra. The Law of Industrial Disputes, Fourth Edition, Volume I, page 685-686).

23. Since these workmen were employed subsequent to coming into force of the notification on 1-2-1975 (rather they could not be employed as contract labour in violation of the said notification) and they are said to have been retrenched after completing more than 240 days continuous service & it being no body's case that provisions of Sec. 25F of the I.D. Act have been complied (that facts are not in question), the question of their reinstatement is an 'incidental' matter arising out of the terms of reference, for want of which adequate relief cannot be granted to the workmen. I may repeat that their reinstatement would be a natural outcome of the answer of the order of reference. It may, however, be kept in mind that the whole Statute be remembered as a welfare basis, it being a beneficial legislation which protects labour, promotes their contentment and regulates situations of crises and tension where production may be imperilled by untenable strikes and blackmail lockouts. The mechanism of the Act is geared to conferment of regulated benefits to workmen and conflicts, actual or potential between management and workmen. Its goal is amelioration of the condition of workers, tempered by a practical sense of peaceful co-existence, to the benefit of both not a neutral position but restrains on laissez faire and concern for the welfare of the weaker lot. Empathy with the statute is necessary to undertake not merely its spirit but also its sense (Bangalore Water Supply and Sewerage Board Vs. Rajappa-1978-I-LLJ 349). Low would therefore be not so cruel as to give stone for bread bagged for & in this context in the particular circumstances of this case when the workmen have been retrenched to defeat the implementation of the Notification itself the term 'incidental' cannot be narrowly construed so as to leave these workmen out of the job for another number of years to pursue the remedy once again which redressal is a natural out flow of the order of reference in issue.

26. As I have already pointed out above, the matter which is independent in one context, may become subsidiary in another matter in a different context. It all depends how and under what circumstances it arises. In other words, the question whether the adjudication of one matter is incidental to the adjudication of another matter depends on the facts of the case.

27. The Supreme Court recollecting few principles, in the case of Soleman Vs. A. Soleman & Company-1897 (AC). 22-28 observed with regard to the intention of the legislature and the meaning which ought to be given to the words used in Statute felt that the Court gives a liberal meaning to the language used by the Parliament unless the language is ambiguous or its liberal sense gives rise to the anomaly or

results in something which would defeat the purpose of the Act. If in this case, the liberal meaning is narrowed down the purpose of the Act is defeated. If this is the spirit of law, the liberal meaning of the word 'incidental' should be applied in the context of the spirit of the legislation, else the interpretation of the word 'incidental' would remain a mere technicality. This tribunal which is competent to create contract would not be slow in delivering bread to the needy instead of stone. Thus, it would be in the spirit of correct interpretation to the liberal meaning of the word incidental occurred in Sec. 10(4) of the I.D. Act, 1947 which covers the redressal of reinstatement in the entire context of the case, upkeeping its dynamic and progressive approach.

28. They are, therefore, entitled to be reinstated under this order of reference. But in the circumstances of this case, they shall not be entitled to any back wages, but, while regularising them, all this period shall be considered. They shall report for joining and the workmen, who are willing to join, shall be reinstated within three months of the date of publication of this award. Reference is accordingly answered as follows :—

The execution of earth work in open excavation for proposed Beharband Pilot Project of Bijuri Sub-Area through Contractor workers fell in the categories of operation in coal mine in which employment of contract labour is prohibited by Notification No. SO 488 dated 1-2-1975 of the Government of India. Hence the workmen employed by Sri Ashok Kumar Patni, contractor, engaged by the management of Bijuri Sub-Area for the purpose of earth work in open excavation for proposed Beharband Pilot Project at Bijuri sub-Area of S.E.C. Ltd, can legally claim the status of direct workers employed by the management of Bijuri Sub-Area of Hasdeo Area of SECL. They are entitled to be regularised and consequently reinstated with all other benefits arising therefrom except back wages. They shall be employed within three months from the date of publication of award and the workmen, who have reported for duty, shall be entitled to wages thereafter. Since they have claimed difference of wages from May 1985 to January 1987 in accordance with NCWA III this difference be paid to them. Award is given accordingly. No order as to costs.

02-04-1992.

V. N. SHUKLA, Presiding Officer
ANNEXURE TO THE AWARD IN CASE NO. CGIT/LC
(R)(7)1989

List of persons engaged by the Contractor at Beharband Pilot Project of Bijuri Sub-Area and authorised to the representative of union concerned (Annexed with Ministry of Labour letter No. L-22012/79/88-D-4(B)) [R(C. II) dated 24th December, 1990].

1. Shri Shivrav S/o Ramjivan.
2. Shri Budhram S/o Kamelaram.
3. Shri Nathuram S/o Daddi.
4. Shri Balasing S/o Kunjhal.
5. Shri Kemla S/o Bhola.
6. Shri Rajendra Pd. S/o Baleswar Pd.
7. Shri Bhiylal S/o Maloo.
8. Shri Ramsiromani S/o Mohanlal.
9. Shri Maya S/o Shyamlal.
10. Shri Santinath S/o Nanddulara.
11. Shri Sonal S/o Baishakh.
12. Shri Awashalal Singh S/o.....
13. Shri Dadni S/o Madadev.
14. Shri America Pd. S/o Ashwani.
15. Shri Paras Baiga S/o Hardwar.
16. Shri Suresh S/o Ramdas.
17. Shri Dileep S/o Babunandan.
18. Shri Bhaskar S/o Ghana.
19. Shri Niranjana S/o Harihar.

20. Shri Gopal S/o Firtu.
21. Shri Upender S/o Jaget Narayan.
22. Shri Badrilal S/o Ramdas.
23. Shri Seetaram S/o Nanu.
24. Shri Shivanarayan S/o Chanhotoo.
25. Shri Shyammanohar S/o Pancharam.
26. Shri Ramadhar S/o. Branch Pd.
27. Shri Indrapal S/o Laxman.
28. Shri Ramkewal S/o Patiram.
29. Shri Anand Kumar S/o. Ramkaran.
30. Shri Bhupendra S/o Ramraj.
31. Shri Ramayun S/o Ramdas.
32. Shri Chaholal S/o. Ramashankar.
33. Shri Ramesh S/o Ambika.
34. Shri Pradip Kumar S/o.....
35. Shri Shriniwas S/o Bhagwan Das.
36. Shri Ramsiromani S/o Raojee.
37. Shri Bhagauti S/o Rameshwar.
38. Shri Ramkanhai S/o Baijnath.
39. Shri Shankar S/o Parmeshwar.
40. Shri Awadhesh Kumar S/o Lakhdeo.
41. Shri Ramesh S/o Sharbharayan.
42. Shri Ramanuj S/o Dedanram.
43. Shri Ganesh Pd. S/o Sitaram.
44. Shri Koahal S/o Ramsiya.
45. Shri Brijmohanlal S/o Hirilal.
46. Shri Dilharan S/o Firtu.

V. N. SHUKLA, Presiding Officer

नई दिल्ली, 22 अप्रैल, 1992

का.घा. 1281:—औद्योगिक विवाद प्रवर्धन विधायक, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाद्य निगम पटना के प्रबन्धन के सम्बद्ध निषेधकों और उनके कार्यों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक प्रवर्धन, नं. 2, अनुबंध के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-4-92 को प्राप्त हुआ था।

[सं. एस. 12012/219/एफ-89-आई आर कोल-II]

New Delhi, the 22nd April, 1992

S.O. 1281.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 2, Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Food Corporation of India, Patna and their workmen, which was received by the Central Government on the 13-4-92.

[No. L-22012/219/F/89-IR(C.II)]

RAJA RAM, Desk Officer
ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

Reference No. 7 of 1990

In the matter of an industrial dispute under Section 10(1)(d) of the I.D. Act, 1947

PRESENT:

Shri B. Ram, Presiding Officer.

PARTIES:

Employers in relation to the management of FCI, Patna and their workman.

APPEARANCES:

On behalf of the employers—Shri J. P. Singh, Advocate.

On behalf of the workmen—Shri B. M. Prasad, Advocate.

STATE : Bihar

INDUSTRY : Food

Dhanbad, the 6th April, 1992

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-22012 (219)/1/89-IR (Coal-II) dated the 8th February, 1990.

SCHEDULE

"Whether the action of the Management of Food Corporation of India, Patna in terminating the services of Sri Amod Kumar w.e.f. 12-9-85 is justified? If not to what relief the workman concerned is entitled?"

2. Shri Amod Kumar the concerned workman claims to have been appointed as Typist on casual basis on 26-12-81 by the management of the FCI and since he has been discharging his duties continuously. According to him Shri S. K. Dutta, the Unit Manager of Modern Rice Mill, Bellouri had also written a letter on 9-11-82 to the District Manager, Purnea to take up the matter with the Regional Office for posting of a Typist against the sanctioned post and in the meantime to accord sanction to engage a casual Typist as the matter was most urgent. It was also submitted through the W.S. that while working as Typist he was granted certificate by the two Unit Managers to this effect regarding his satisfactory work as Typist.

3. It is stated that the District Manager called for a report from the Unit Manager by letter dated 7-11-83 about the name and No. of casual employees who had put in 240 days of attendance during the period of 12 months. The concerned workman after having learnt sent a letter to the Senior Regional Manager, FCI Patna for his regularisation as Typist in the office of the Unit Manager. The Unit Manager, FCI Bellouri furnished the list of the names of casual employees wherein the name of the concerned workman figured against Sl. No. 6 of the list. It was stated that most of the casual employees were regularised by order of the Zonal Manager but illegally the name of the concerned workman was omitted and lastly he was stopped by the Unit Manager, FCI, Bellouri from his work on 12-9-85.

4. The concerned workman stated that he requested the authorities concerned for his reinstatement and regularisation but he was not heard and ultimately he had to seek remedy by invoking the Writ Jurisdiction of the Hon'ble High Court. But ultimately the case was referred to this Tribunal. He also placed his case before the ALC(C), Patna for conciliation but that ended in failure resulting reference to this Tribunal. It has been thus prayed that the concerned workman be ordered to be reinstated on the post of Typist with all benefits and back wages and also to hold that the action of the management of FCI, Patna in terminating the services of the concerned workman with effect from 12-9-85 was not justified.

5. The management outright denied the claim of the concerned workman by stating that the concerned workman was never appointed as Typist by the management of FCI. Raising the legal point it was urged that the Unit Manager has got no power to appoint any Typist of Class III. Admittedly, the FCI Unit at Bellouri was owned by the FCI and a number of workers were engaged to run the rice mill. Some casual labourers were also engaged. In case of rush of work but mostly the office work used to be done by the permanent staff and so there was no occasion of appoint any casual Typist.

6. The question for regularisation of the concerned workman arose when a representation was filed before the District Manager, Purnea who reported the matter to the Senior Regional Manager, Patna. Again the Sr. Regional Manager, Patna in his turn asked for complete particulars of such appointment and figure of attendance because the concerned workman had taken the plea that he had completed 240 days in a particular year. The reports submitted by the District Manager indicated that the concerned workman had not completed 240 days of Attendance in any calendar year and accordingly he was not regularised even as casual labourer.

7. It was further stated that Rice Mill at Bellouri stopped functioning sometimes in 1986 and the departmental staff were transferred to other place. The casual staff unauthorisedly appointed by the Unit Manager during the functioning of the rice mill were disbanded. In this view of the matter the concerned workman who is not holding continuous service was also disbanded. In this way it has been urged that the case of the concerned workman merit no consideration and the award be passed accordingly.

8. The point for consideration is whether the concerned workman Shri Amod Kumar was appointed as Typist on casual basis on 26-12-81 by the management of the FCI and that he qualified for his regularisation after having put in 240 days attendance in a year and if so whether the action of the management of FCI in terminating his services with effect from 12-9-85 was justified.

9. Admittedly the concerned workman was not given any letter of appointment and according to him only a notice was taken out to show that he was appointed as such. But he did not care to obtain a copy of his appointment order. He stated that his primary work was typing but sometimes he had to attend clerical work also. When he was so working as Typist in Modern rice mill, Bellouri he was suddenly stopped from his duty on 12-9-85 by the Unit Manager without any rhyme or reason.

10. The concerned workman has heavily placed his reliance upon some of the exts for his claim as Typist. Ext. W-1 and W-2 are the certificates granted by the two Unit Managers namely Shri U. C. Saha and Shri U. N. Roy of Modern Rice Mill, Bellouri certifying that Amod Kumar had been working as Casual Typist since 26-12-81 and that his work was found satisfactory. Shri Saha while deposing as MW-1 has stated that the concerned workman used to type on the typing machine for the sake of learning. Similarly Shri U. N. Roy, MW-2 was posted at Bellouri in leave vacancy only for about a week and therefore the certificate granted by him to the effect that the concerned workman was working as Casual Typist since 26-12-81 carries no sense. However, both the witnesses have stated that Shri Amod Kumar was a casual labour at Bellouri. Virtually I have failed to understand as to how these two certificates granted by the 2 Unit Managers at different times will help the concerned workman. The whole question is as to whether he was engaged as Typist or not. During the course of argument it was submitted that the Unit Manager has got no authority to appoint anybody much less the Typist. Even if any such casual appointment is made he is necessarily required to seek permission of the Senior Regional Manager. There is nothing to show that any such permission was ever sought by the Unit Manager. Certainly Shri S. K. Dutta, the Unit Manager had written a letter on 9-11-82 Ext. W-3—Ext. M-2 to the District Manager, Purnea for appointment of a Typist against sanctioned post. He had also requested that in the meantime he be permitted to engage a casual Typist for it was most urgent. I find that the name of the concerned workman does not figure anywhere in Ext. W-3. Again there is nothing to show that the Unit Manager received any reply and he engaged the concerned workman as Casual Typist. Certainly the two certificates Ext. W-1 and W-2 do indicate that the concerned workman was doing the typing work. Even MW-1 has stated that off and on he used to take typing work from the concerned workman but no typist was appointed in his office. The question is if this typing work can confer any right with the concerned workman for his absorption or regularisation as Typist. I think the answer must go in negative. If such things are allowed to continue then any literate casual worker may learn typing and in due course claims for the post. The whole question was whether he was ever appointed or recognised as casual typist by the management of the FCI or not. Ext. W-4 equivalent to Ext. M-4 is the photo copy of the letter dated 7-11-81 written by the District Manager to the Unit Manager, Bellouri directing him to furnish the particulars of the casual labourers who had put in 240 days attendance in a year. Ext. W-6 equivalent to Ext. M-1 is definitely not in compliance of Ext. W-4 but that is the list of casual labourers furnished by the Unit Manager to the District Manager, Purnea to his originary telegram dated 31-3-85 certain the list of casual labour the name of Shri Amod Kumar, the concerned workman appears against Sl. No. 6.

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This shows that the concerned workman was on the roll of the casual labour and he was almost treated like that by the Unit Manager. The list Ext. W-6 does not endorse any note that the concerned workman although casual labour was working as Typist since before. MW-1 has stated that he had sent to the District Manager the list of casual workers for their absorption in D.P.S. system. The concerned workman was figured in the list and the list except one or two cases was approved. The concerned workman was one of the person who was not taken. From the facts noted above it is quite clear that the concerned workman was never recognised as Typist before the appropriate authority. It may also significantly be noted that the grade of Typist is 3rd grade for which there is every norms and procedure for appointment Ext. W-5 equivalent to Ext. M-4 again a letter sent by the concerned workman Shri Amod Kumar to the Senior Regional Manager for his regularisation of his services as Typist. I do not think that mere writing of letters without any base will work in favour of the concerned workman and the only point canvassed by the learned counsel for the management was that the concerned workman was never appointed as Casual typist. Virtually there is no paper worth the name to show that he was actually appointed as Typist rather the paper shows that he was engaged as casual labour like others and there also he could not be regularised because he did not complete 240 days attendance in a year. In view of these facts I am constrained to hold that the concerned workman was never engaged as Typist by any proper authority and is fighting work without any sanction/approval cannot create any right on him for the post of Typist.

11. The concerned workman had raised industrial dispute before the ALC(C) Patna for redressal of his grievance Ext. W-9. The notices were served to the Senior Regional Manager, FCI, Patna Ext. W-12. The management of the FCI Patna had submitted reply vide Ext. W-13 dated 21-2-89 denying the claim of the concerned workman as Typist. There also the same plea was taken. Ext. W-14 is the photo copy of the Typing certificate of the concerned workman. It is stated on behalf of the management that Amod Kumar even as casual labour did not complete 240 days of the attendance. At this stage I may refer to Ext. M-6 which is the carbon copy of the attendance of the concerned workman for the period from 1982 to September, 1985. Definitely from the calculation it does not appear that the concerned workman ever completed 240 days in a calendar year. At this stage the learned counsel for the workman submitted that while calculating 240 days attendance Sundays and other leaves are also to be taken into account but Ext. M-6 does not indicate that those Sundays and leaves were included. Reliance was placed upon a judgement reported in AIR 1986 Supreme Court page 458—to Lab. I.C. 1986 page 98. Their Lordships were pleased to hold that a workman shall be deemed to be in continuous service if he has worked under the employer for a particular period. The expression "actually worked under the employer" cannot mean those days only when the workman worked with hammer, sickle or pen but must necessarily comprehend all those days during which he was in the employment of the employer and for which he had been paid wages either under express or implied contract of service or by compulsion of statute, standing order etc. Thus Sundays and other paid holidays should be taken into account for the purpose of reckoning the total number of days on which the workman could be said to have actually worked.

12. Thus the authorities are quite clear that the other paid holidays and Sundays should be included. Although the concerned workman has denied to have been engaged as casual labour but from the documents as referred to above it is well proved that he was engaged as labourer. It is quite a different thing that he has been doing as Typist but in the paper he was never recognised as Typist by the management. There may be some permanent post of Typist but the concerned workman cannot claim for his regularisation only because he was doing the typing work. Being a casual labour he might be doing typing work to his own advantage also.

13. I find that some registers have been filed just to show whether the concerned workman had actually worked for

240 days or not. I have verified the registers (Ext. M-18, -20) which appertain to the period of 1982 and 1984. The total attendance in a year of the concerned workman does not conform to the standing order of continuous service. It is also true that Sundays and holidays seemed to have been left out. Apart from that we find that a Khista Register was maintained by the management which have been brought on record and marked Ext. M-17. It was pointed out by the learned counsel for the concerned workman that in the Bill Chart (Ext. M-6) payment for 11-8-85, 14-8-85, 16-8-85, 18-8-85, 3-9-85 and 7-9-85 have been shown whereas in the Khista register no attendance appears to have been marked for the aforesaid dates. Normally it is presumed that the attendance register would have been prepared on the basis of the entry made in the Khista register but in view of such omission and contradictions it is very difficult to say that attendance register was maintained properly. Again in Khista Register attendance for 13-8-85, 17-8-85, 22-8-85 and 24-8-85 shown to have been marked but in the payment bill chart no payment for these dates have been shown. For these reasons I am to hold that the concerned workman was in continuous service and he completed 240 days within the period of 12 calendar months. In this view of the matter his stopping from his work without complying with the provision of Section 25F was void ab initio. Reliance was placed upon a judgement reported in AIR, 1981 Supreme Court page 1253. In this very sequence I may refer to some of the authorities relied upon by the learned counsel for the workmen. He relied upon a judgement reported in 1990 Lab. I.C. page 1451. That was a case in which the petitioner-workman was employed on daily wage basis. He was in continuous service and the provision of Section 25F was not followed nor complied with. Their Lordships were pleased to hold that the act does not provide any distinction between part time and full time employees and so the part time employee is also covered by the definition of workman. Here in the instant case there was not any question of any part/full time employee but as held above the concerned workman was in continuous service as casual labour and so his stoppage without complying with the provision of Section 25F was absolutely invalid. Further reliance was placed upon 1991 Lab. I.C. page 1346. That was a case in which there was an ad hoc appointment initially for a period of 6 months with the indication of its being regularised I think the circumstances of the case do not warrant the application of this authority because in the instant case there was no ad hoc appointment nor there was any indication given to the concerned workman for his regularisation.

14. I find that some other documents have also been filed but they are not very relevant for the purpose of this case. Ext. M-26 and M-27 are the books of advice of despatches from food storages. Similarly Ext. M-19 is the attendance Register from 1980 to June, 1981 when the concerned workman was not an employee. Ext. M-24 and M-25 are muster roll bills.

15. In para 6 of the W.S. of the management it has been stated that Rice Mill of Bellouri stopped functioning sometimes in 1986 and the casual staff unauthorisedly appointed by the Unit Manager were disbanded. Similarly the concerned workman who was not holding continuous service has been disbanded. However, it may be noted that as per discussion made above it has already been held above that the concerned workman held continuous service and his stoppage was illegal and void. MW-3 Shri Sia Sharan Pandit is a junior Engineer in FCI who stated that the said rice mill has already been sold and the disposal is still in process. Ext. M-13 and M-14 are the relevant document to show the process of disposal of the rice mill. The witness stated further that even after disposal of the mill employers are still working in Bellouri rice mill. From the documents I find that the disposal process had taken place in the year 1991 where as the cause of action arose on 12-9-85 i.e. about 6 years ago. In such view of the matter the management cannot be permitted to show that the Mill has been sold and workmen disbanded.

16. The witness MW-3 has proved photo copy of circular dated 14-8-85 issued from FCI Zonal Office, Calcutta marked Ext. M-15. Ext. M-16 is the correction of item No. 19 of Ext. M-15. This document (Ext. M-15) provides that

workmen after introduction of D.P.S. system were to furnish their biodata for issuing of identity card by the District Manager. It is said that the concerned workman had not furnished any bio data. It may be pointed that the said circular is dated 14-8-85 but the concerned workman was stopped on 12-9-85. This means that the circular was issued only a month before the concerned workman was stopped and in this situation he might not have any knowledge about it. WW-1 the concerned workman has admitted that he had not furnished any bio data. The copy of the circular does not show that it was sent to the Unit Manager, Bellouri for information.

17. The maintainability of the reference also came up for consideration at the very beginning of the argument when it was submitted by the learned counsel for the management that Bellouri was a factory opened by the FCI and a case under the Factory Act will be examined by the ALC State and the dispute should have been heard by the Labour Court, State Government. It was further contended that Bellouri was a factory for thrashing rice. Ext. M-7 to M-10 are the photo copy of the challan showing payment of licence fee under the Factory Act for Modern Rice Mill, Bellouri. I think the contention of the learned counsel cannot be upheld for the simple reason that the control and supervision of the aforesaid rice mill was under the management of FCI. The word "Appropriate Government has been defined under Section 2 of the I.D. Act and the Central Government is the appropriate Government for the FCI.

18. I have considered various aspects of the matter and I have come to the conclusion that Shri Amod Kumar, the concerned workman was engaged as casual labour in modern rice mill by the Unit Manager and discharged his duties as such. I am also to hold that he rendered continuous service and his termination of service by the management with effect from 12-9-85 was not justified. Thus he is entitled for his regularisation as Labour in Class IV with effect from 12-9-85 with other consequential benefits in the time of Scale of Class IV. The management is directed to reinstate and regularise the concerned workman in the time scale of Class IV with effect from 12-9-85 with payment of 50 per cent back wages in the time scale of Class IV and other consequential benefits within one month from the date of publication of the Award.

B. RAM, Presiding Officer

नई दिल्ली, 22 अप्रैल, 1992

का.प्र. 1282:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) को धारा 17 के अनुसरण में, केन्द्रीय सरकार एन.सी.सी.एल. श्रीरामपुर के प्रबंधन के संबंध में निोजकों और उनके कारखानों के बीच अनुबंध में निम्नलिखित औद्योगिक विवाद में औद्योगिक अधिकरण, हैदराबाद के पंचदश को प्रकाशित करती है जो केन्द्रीय सरकार को 20-4-92 को प्राप्त हुआ था।

[संख्या एन-22012/262/91-आई.प्रार. (सी-II)]

राजा लाल, हेड ऑफिसरी

New Dehi, the 22nd April, 1992

S.O. 1282.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of S.C.C. Ltd., Srirampur and their workmen, which was received by the Central Government on the 20-4-92.

[No. L-22012/262/91-IR(C.II)]

RAZA LAL, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL AT HYDERABAD

PRESENT :

Sri G. Krishna Rao, B.A., B.L.,
Industrial Tribunal.

Dated the Thirtieth day of March, Nineteen hundred and ninety two

INDUSTRIAL DISPUTE NO. 60 OF 1991

BETWEEN :

The Vice President, S.C. Clerical
Association, PO : Srirampur,
Dist. Adilabad (AP) ... Petitioner

AND

The General Manager, M/s. S.C.
Co. Ltd., PO : Srirampur,
Dist. Adilabad (AP). ... Respondent

APPEARANCES :

M/s. G. Vidya Sagar, N. Vinesh Raj, G. R.
Mohan, A. Veera Shankar Rao and P.
Giri Krishna, Advocates for the petitioner-
workmen M/s. K. Sriivasa Murthy, G.
Sudha and M. Meera Advocates for the res-
pondent—Management.

AWARD

This is a reference made by the Government of India, Ministry of Labour by its Order No. L-012/262/91-IR(C.II) dt. 31-10-91 for adjudication of the dispute between the management of S.C. Co. Ltd., Srirampur and their workmen, setting forth the point for adjudication in the schedule appended thereto as follows :

“Whether the action of the management of M/s. S.C. Co. Ltd., Srirampur in dismissing the services of Sri P. Prasada Rao, Clerk Gr. II, RKNT is justified ? If not, to what relief the workman is entitled to ?”

2. This reference was registered as I.D. No. 60 of 1991 on the file of this Tribunal. After receiving the notice from this Tribunal, both parties put in their appearance and the petitioner filed the claims statement on 7-12-91. The averments of the claims statement filed by the petitioner read as follows :

It is submitted that the workman concerned was appointed as Clerk Grade II in Singareni Collieries Company Limited on 17-12-1987 and was posted to work at RKNT. He was also confirmed in the post of Clerk Grade II in notification dated 31-12-1990. The workman has been discharging his duties to the entire satisfaction of his superiors. He has been maintaining clean record of service throughout. It is submitted that the entire Coal Mines in Singareni Collieries Co. Ltd., were on strike from 10-10-1990 to 16-10-1990. The management has ordered payment of ex-gratia to all the workmen to be paid on 17-10-1990. For this purpose, the workman was called from his house and directed to prepare the incomplete ex-gratia pay sheets of other clerks and also pay sheets of coal fillers of 'B' Relay. The workman was under heavy pressure of work. For this purpose, he was given assistance of one Sri A. Rajababu, Clerk for preparation of pay sheets. He was also given the assistance of Sri T. Posham, CSL, RK New Tech. Inc. for disbursing the amounts. The petitioner-workman prepared the pay sheets to the best of his ability and also made payments. However, it is submitted that he prepared the pay sheet of Sri A. Shankaraiah and Norma Nam Dev., workers. With regard to the payment in respect

of Sri A. Shankaraiah, it is submitted that on 17-10-90 he had already received the Ex-gratia from the respective pay sheet clerk. Besides this, he also gave an application to the authorities to make the payment to one Sri T. Posham, who is none other than the person who assisted the workman for payment of the cash to the concerned workman. On the said authorisation, the Pit Office Assistants concerned also made an endorsement to the effect that the amount can be paid. Accordingly, the workman made payment to Posham towards ex-gratia payment under the said authorisation, dated 15-10-1990. However, subsequently, Sri Shankaraiah realised that he received the double payment under ex-gratia amount and he made an application to the Colliery Manager on 3-11-1990 to receive back the excess amount received by him under mistaken impression. But, however, the Colliery Manager, for the reasons best known to him, refused to receive the amount when it is a clear case of the workman that he received the double payment and he intends to return one set of payment, not to receive the same is nothing but a coupled intention to victimise the workman finding fault with him that he prepared the double pay sheets. With regard to the payment in respect of Sri Namdev, it is submitted that he was working as General Mazdoor from 1-9-1990. The ex-gratia was prepared by the workman for payment along with the 'B' relay employees. However, on 17-10-1990, the same could not be paid to the workman. Therefore the entire undisbursed amount including the amount of Sri Namdev was kept in safe custody and deposited in cash office of the Company. The next payment is scheduled on 24-10-1990. On the said date, the cash was brought by the workman and when he conducted reconciliation of the payment of ex-gratia with him that he found that he was having excess cash of Rs. 1,000/-. When he tallied with the pay sheets, he found the signatures/thumb impressions on all the pay sheets. Therefore, he was under a bonafide impression that all the amounts are duly received by the workman concerned as noted in the pay sheets. The workman has suspected that there was some accounting irregularity on account of which the excess amount was resulted. Therefore he started making vigorous enquiries from 24th onwards. However, he could trace the irregularity on 28-10-1990 and immediately brought to the notice of the management for the omission has taken place and that he is depositing the amount back which was to be paid to Sri Namdev. The authorities having satisfied with the bonafides transaction, the Manager permitted to deposit the amount which was accordingly deposited on 29-10-1990. The omission has obviously taken place because on all the pay sheets, the signatures and thumb impressions were found but however in respect of Sri Namdev, the workman could find, on subsequent scrutiny, that he has not signed the pay sheets but Sri Posham who is assisted the workman in disbursing the cash himself signed the pay sheets. This can be detected only when a close and thorough scrutiny was made subsequent to 24-10-1990 when the workman got excess cash of Rs. 1,000/-. Therefore, there is no irregularity or illegality much less the alleged misappropriation of the company's funds. However, making a mountain out of mole hill, the company issued charge sheet on 1-11-1990 which was received by the workman on 3-11-1990 alleging the misconduct under Company Standing Order No. 16(2) and 16(6). Thereafter, Sri Panduranga Rao, Personnel Officer di-

rected the workman to extend the enquiry, even before receiving the explanation. It is not understood as to how the enquiry was ordered and by whom it was ordered. In any event, in order to obey the instructions of the superior officer, the workman presented himself before the enquiry officer and gave a statement, in the enquiry, one Sri P. K. Sony also gave a statement on behalf of the Management. The petitioner workman was not furnished the statement of the witnesses examined in the enquiry. Without furnishing the report of the enquiry officer or the proceedings of the enquiry, the workman was dismissed from service by an order dt. 1-4-1991, under the signature of Director, (C, P & P). It is respectfully submitted that the order of the dismissal is illegal, unjust, and without jurisdiction for the following among other grounds. (i) The charge sheet is issued by the Colliery Manager, RKNT on 1-11-1990 and the further proceedings were not conducted by him. Finally, the order of dismissal was passed by the Director (CP & P). It is open for the disciplinary authority alone to initiate action and pass appropriate punishment orders. In the instant case, the General Manager is the only appropriate competent person to initiate disciplinary proceedings. Therefore, the charge sheet issued by the Colliery Manager, who is lower in rank to the General Manager is not competent and the entire enquiry is illegal. Similarly, the Director (C, P & P) is an higher authority to the General Manager who ought not to have interfered and user the jurisdiction of the General Manager, thereby grave prejudice is caused to the case of the petitioner. In fact, he is a reviewing authority over the Appellate Authority. By passing the order by the Director (C, P & P), the workman is denied the remedy of appeal and also review. (ii) The charges are vague and do not identify specific misconducts. As already stated above, there was no illegality of irregularity committed by the workman. Unintentionally, the omission has taken place, in respect of Sri Namdev which was rectified immediately with permission of the authorities. Therefore, the alleged irregularities relating to preparation of pay sheets of Sri A. Shankaraiah and Sri Namdev is absolutely baseless and not borne out by any records. (iii) The Enquiry Officer has not recorded the statement of the concerned workman but only a unconcerned officer was asked to give the statement with regard to the charges. In fact, Sri A. Shankaraiah submitted application on 3-11-1990 stating that he received the amount twice and is willing to remit back one set of the amount which was refused by the manager. Therefore the question of double payment does not arise. In fact, Sri A. Shankaraiah should have been taken to task for having received the amounts twice and kept quite for some period. (iv) Shri Shankaraiah gave an authorisation in favour of Sri T. Posham and the amount was paid to him after permission from the Pit Office Assistant who is incharge of the entire office. This fact was not considered by the Enquiry Officer at all by the punishing authority while imposing the punishment. Thus, the enquiry was conducted in gross violation of principles of natural justice. (v) On the basis of the statement given by the single witness on behalf of the Company, the charges cannot be held to be proved on the other hand, it is the case of the workman that the misappropriation was played by the workman who has received the amount twice and that he was willing to pay the amount after realising the mistake. For the mistake of the others, the workman concerned cannot

be made a scapegoat. (vi) The workman was not furnishing the report of the Enquiry Officer nor any show cause notice was given to him before imposing the punishment of dismissal from service. (vii) A copy of the enquiry report was furnished during the conciliation proceedings, but however that would not cure the irregularity committed by the management (viii) It was held by the Hon'ble Supreme Court time and again that in passing of the removal order, without furnishing the enquiry report would nullify the order of the dismissal and therefore is liable to be declared as void. (ix) The petitioner workman has maintained clean record of service and the same was not considered while passing the order of dismissal. It is only a superficial impression made in the dismissal was that the authority looked into the past record and found that there are no extraneous circumstances warranting lesser punishment. (x) The order of the dismissal is wholly illegal and unjustified, even otherwise the irregularities are most technically in nature and that to, under a heavy pressure of work, it is quite likely that sometimes excessless payments do occur. The same are being rectified subsequently and this procedure is not new to the company. However, the management wanted to victimise the petitioner as he belongs to scheduled caste. (xi) The authorities are manifesting the issue and wholly unjustified punishment was meted out to him. Therefore, the action of the management amounts to victimisation and unfair labour practice. (xii) In any event, the misconduct is most trivial in nature and the punishment of dismissal is too severe and out of all proportions to the gravity of the alleged misconduct. Therefore, the order is also unjustified on this ground. The workman is unemployed ever since from the date of his illegal removal from service and he could not secure alternate employment inspite of his best efforts. It is therefore prayed that the Hon'ble Court may be pleased to declare the order of dismissal No. P. 10/4201/IR/610, dt. 1-4-1991 as illegal, arbitrary and unjustified and consequently direct the management to reinstate the workman into service with full back wages and other attendant benefits and grant such other relief or reliefs as this Hon'ble Court deems fit and proper in the circumstances of the case.

3. While the matter stood posted for filing the counter by the respondent, both parties appeared before this Tribunal on 30-3-1992 i.e. the petitioner union, concerned workman and the respondent company and filed a joint memo alongwith the memorandum of settlement. The terms of the settlement are read over and explained to both the parties and they have admitted the same as true and correct. The settlement is recorded in view of keeping peace and harmony in the industry and to keep good relationship between the management and workmen. So in view of the settlement entered into and filed by both the parties into Court, I am of opinion that there is no need to pass an award on merits in this case and an award is to be passed in terms of the settlement entered into between both the parties.

4. In the result, an award is passed in terms of the settlement entered into by both the parties. The joint memo filed by both the parties alongwith the memorandum of settlement is appended to this award. There will be no order as to costs.

Dictated to the steno-typist, transcribed by him, corrected by me and given under my hand and the

seal of this Tribunal this the 30th day of March, 1992.

G. KRISHNA RAO, Industrial Tribunal
Appendix of evidence
NIL

BEFORE THE HONOURABLE INDUSTRIAL TRIBUNAL (CEN) AT HYDERABAD

I. D. No. 60 of 91

BETWEEN

The Vice President, Singareni Collieries Clerical Association (SICCA) P. O. Srirampur, Dt. Adilabad (A.P.)—Petitioner.

AND

The General Manager, Singareni Collieries Company Limited, P. O. Srirampur, Dt. Adilabad (A.P.)—Respondent.

COMPROMISE MEMO FILED BY BOTH THE PARTIES

1. It is respectfully submitted that the workman in dispute and petitioner's Union, and also the Respondent Company herein entered into a Memorandum of Settlement under Sec. 18(1) of I. D. Act, 1947, out of Court regarding the subject matter of I. D. No. 60/91. It is submitted that the General Secretary, Singareni Collieries Clerical Association (SICCA), on behalf of the petitioner made a representation for reinstatement of the petitioner. Further, the petitioner has also submitted a mercy petition dt. 14-03-1992 for his reinstatement on humanitarian grounds. As a result, the Respondent Company and Singareni Collieries Clerical Association (SICCA) discussed the issue mutually and reached an amicable Settlement.

2. The Respondent Company agreed to reinstate the petitioner as CLERK GRADE-II with effect from 02-04-1992 in the scale of Rs. 1158-48-1542-58-2006, on a commencing basic pay of Rs. 1158 per month, subject to being found medically fit.

3. The petitioner herein expressly agreed that he will not have any claim whatsoever with regard to back wages and attendant benefits, which relates to the subject matter of I. D. No. 60/91. Neither the petitioner Union (SICCA) nor the petitioner will raise any dispute with regard to back wages and attendant benefits. As such, the petitioner has been appointed, subject to his medical fitness as Clerk Grade-II with effect from 02-04-1992 vide Office Order No. P. 10/4201/IR/734, dated 14-03-1992 and advised to report to the General Manager/Ramakrishnapur, for work and placement.

4. In view of the above, this Hon'ble Court may be pleased to pass an Award in terms of Memo of Settlement dt. 14-03-1992 arrived at between the Respondent Management and petitioner's Union (SICCA) under Sec. 18(1) of I. D. Act, 1947.

FOR MANAGEMENT (SCCL) :

(P. A. V. V. S. SARMA),
Sr. P. O. (IR),
Corp Personnel Department,
Kothagudem.

FOR WORKMAN (SICCA) :
(B. JANAK PRASAD),
General Secretary.
(K. VENKATESWARA RAO),
Vice President.
(P. PRASADA RAO),
Concerned workman to the dispute.

COUNSEL FOR RESPONDENT :

COUNSEL FOR PETITIONER :

MEMORANDUM OF SETTLEMENT ARRIVED AT UNDER SECTION 18(1) OF I. D. ACT, 1947, BETWEEN THE MANAGEMENT OF SINGARENI COLLIERIES COMPANY LIMITED AND THEIR WORKMAN REPRESENTED BY THE GENERAL SECRETARY, SINGARENI COLLIERIES CLERICAL ASSOCIATION (SICCA) IN I. D. NO. 60/91 PENDING BEFORE THE INDUSTRIAL TRIBUNAL (CENTRAL) HYDERABAD WITH REGARD TO DISMISSAL OF SHRI P. PRASADA RAO, EX-PROBATIONARY CLERK GRADE-II, RK NT, SREERAMPUR AREA, AT KOTHAKUDEM ON 14-03-1992.

PARTIES PRESENT

REPRESENTING MANAGEMENT : SCCL

1. Shri P. T. Thomas, G. M. (Personnel).
2. Shri Balbir Singh, Addl. CPM (IR).
3. Shri K. Chandramouli, Sr. P. O. (IR).

REPRESENTING UNION : SICCA

1. Shri B. Janak Prasad, General Secretary, SICCA.
2. Shri K. Venkateswara Rao, Vice President, SICCA.
3. Shri P. Prasada Rao Concerned workman to the dispute.

SHORT RECITAL OF THE CASE

Shri P. Prasada Rao, Ex-Probationary Clerk Gr II, RK NT, SRP(P) Area was chargesheeted for misappropriation of Company's amount and negligence of duties under Company's Standing Order No. 16(2) & 16(6) and was dismissed from the Company's services w.e.f. 09-04-1991 vide letter No. P. 10/4200/IR/617, dt. 01-04-1991, as the charges were proved in the enquiry.

Further a dispute was raised by the Vice President, SICCA on behalf of the workman, before the Conciliation Authority and the Conciliation Authority ALG(C)MNCL admitted the same in Conciliation Conciliation Proceedings were held on various dates and the same were ended in failure. Consequently, the dispute was referred to the Industrial Tribunal (Cen)/Hyderabad by the Govt. of India with the following Schedule of reference, and the same was registered as I.D. No. 60/91.

"Whether the action of the Management of M/s. S. C. Co. Ltd., Srirampur in dismissing the services of Shri P. Prasada Rao, Clerk Gr. II. R. K. NT is justified? If not, to what relief the workman is entitled to?"

The case is pending before the Industrial Tribunal for filing the Counter by the Respondent Company. Meanwhile the SICCA has represented and the petitioner has submitted mercy petition for reinstatement

in the Company. Both the parties discussed the issue mutually to reach an amicable Settlement. After holding discussions, both parties agreed to settle the issue out of the Court as follows :

TERMS OF SETTLEMENT

1. The Management agreed to reinstate Shri P. Prasada Rao, Ex-Probationary Clerk Grade-II, RK NT as 'CLERK GRADE-II' with effect from 02-04-1992 in the scale of Rs. 1158-48-1542-58-2006, on a commencing basic pay of Rs. 1158 per month, subject to being found medically fit.

2. It is further agreed to treat the period of absence from the date of dismissal i.e., 09-04-1991 to the date of reinstatement i.e., 02-04-1992 as leave on loss of pay for the purpose of Gratuity.

3. The Union agrees that either themselves or Shri P. Prasada Rao will not have any claim whatsoever with regard to backwages and attendant benefits in respect of Shri P. Prasada Rao.

4. The Union also agrees not to raise any further dispute on this matter and the dispute stands wholly and finally settled.

5. Both parties agree to file Compromise Petition along with this Settlement, before the Industrial Tribunal (C)/HYD with a prayer for passing an Award in terms of the above Settlement.

SIGNATURE OF THE PARTIES

REPRESENTING MANAGEMENT :

1. (P. T. THOMAS)
2. (BALBIR SINGH)
3. (K. CHANDRAMOULI)

Witnesses :

1. (T. PULLA RAO),
Steno,
Corp. Personnel Dept.

REPRESENTING UNION :

- (B. JANAK PRASAD)
- (K. VENKATESWARA RAO)
- (P. PRASADA RAO)

KGM/DT 14-03-1992

नई दिल्ली, 22 अप्रैल, 1992

का.सा 1283:- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूच में, केन्द्रीय सरकार बुरहार नगर एरिया प्राक. एन.ई.सी. लि. के प्रबन्धन के संलग्न निपजिको और उनके कर्मचारियों के बीच, प्रसंग में विविध औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक प्रतिक्रिया, जालपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-4-92 को प्राप्त हुआ था।

[संख्या एन-22012/334/91-आई आर. (सी-II)]

राजा लाल, डेस्क अधिकारी

New Delhi, the 22nd April, 1992

S.O. 1283.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure to the Industrial Dispute between the employers in relation to the management of Burhar Sub-Area of S.E.C. Ltd. and their workmen, which was received by the Central Government on the 20-4-92.

[No. L-22012/334/91-IR(C.II)]

RAJA LAL, Desk Officer

ANNEXURE

BEFORE HON'BLE V.N. SHUKLA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL - CUM, - LABOUR COURT JABALPUR (M.P.)

Case No. CGIT/LC(R) (16)/1992

PARTIES :

Employers in relation to the management of Burhar Sub-area of S.E.C. Ltd., P.O. Dhanpuri, District Shahdol (M.P.) and their workman, Shri Lalji Tripathi, Driver of Subhash Mines and Shri Abdul Samad, Fan Khalasi, Dhanpuri Underground Mines represented through the Madhya Pradesh Koyla Mazdoor Sabha (HMS), P.O. Dhanpuri, District Shahdol (M.P.)

APPEARANCES :

For Workman.—Shri N.L. Pandey

For Management.—Shri G.K. Prasad

INDUSTRY.—Coal Mine

DISTRICT.—Shahdol (M.P.)

AWARD

Dated : April 1st, 1992

This is a reference made by the Central Government Ministry of Labour, vide its Notification No. 22012/334/91-IR(C-II) Dated 15-1-1992, for adjudication of the following dispute:—

THE SCHEDULE

"Whether the action of the Sub-Area Manager, Burhar Sub-area Post Dhanpuri, Dist. Shahdol, in dismissing Shri Lalji Tripathi, Driver of Subhash Mines and Shri Abdul Samad, Fan Khalasi, Dhanpuri Underground Mines from the services of the Company w.e.f. 23-1-1991, is legal and justified? If not, to what relief are the workmen entitled to?"

2. On receipt of the reference order the case was sent for filing of statement of claim along with relevant documents, list of reliance and witnesses. But instead of filing their respective statement of claim etc. the parties have filed a compromise petition on 5-3-1992, terms of which are as under :—

TERMS OF STATEMENT

- (1) The above named three persons would be re-employed and that their continuity of service would be granted, subject to their conduct during the period of one year from the date of their re-employment.
- (2) The period of their absence from the date of their dismissal to the date of their resumption on duty will be treated as DIES NON, i.e. the Principle of NO WORK NO PAY subject to the condition, laid down in para (1) above.
- (3) The respective incumbents will tender an unconditional apology before their resumption on duty and would also undertake that on the event of their conduct during the period of one year, as referred above, if there is no improvement, for

that matter, their continuity in service, will be decided accordingly by the Management.

- (4) The above persons on resumption would be posted out of Sohagpur Area, i.e. two at Johilla Area and one at J & K Area.

3 The above terms of settlement are with regard to three persons viz. Lalji Tripathi, Premlal Pendey and Mahendra Kumar Jain and the reference made by Government is with regard to dismissal of Lalji Tripathi and Abdul Samad. Thus the compromise arrived at between the parties is with respect to Lalji Tripathi. It Khaiasi or the Union has no interest in the case.

4. The settlement does not speak about the case of other workman concerned, Abdul Samad.

5 I have gone through the terms of Settlement quoted above which are with respect to Lalji Tripathi, Driver of Subhash Mines only. The terms are just, fair and in the interest of the workman, Shri Lalji Tripathi. I therefore, give my award in terms of Settlement arrived at between the management and the Union in respect of Shri Lalji Tripathi and make no order as to costs.

V. N. SHUKLA, Presiding Officer

नई दिल्ली, 22 अप्रैल, 1992

का.प्र. 1284:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पिपला कार्लरी ग्राफ डब्ल्यू. सी. लि. के प्रबन्धन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-4-92 को प्राप्त हुआ था।

[संख्या एल-21012/54/88-डी-III (डी)\

राजा लाल, डेस्क अधिकारी

New Delhi, the 22nd April, 1992

S.O. 1284.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Pipla Colliery of W.C. Ltd. and their workmen, which was received by the Central Government on the 16-4-92.

[No. L-21012/54/87-D. III(B)]

RAJA LAL, Desk Officer

ANNEXURE

BEFORE HON'BLE SHRI V. N. SHUKLA,
PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (M.P.)
CASE NO. CGIT/LC(R)(1)/1988

PARTIES :

Employers in relation to the management of Pipla Colliery of W.C. Ltd. Tah. Saoner, District Nagpur (MS) and their workman Shri K.D. Patmase C/o Vishwakarma Iron Industries, Khaparkheda, Tah. Saoner, District Nagpur (MS).

APPEARANCES:

For Workman—Shri S. K. Rao, Advocate.

For Management—Shri A. K. Shashi, Advocate.

INDUSTRY : Coal Mine DISTRICT : Nagpur (MS) AWARD

Dated : March 20th 1992

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-21012/54/87-D.III(B) dated 3/28-12-1987, for adjudication of the following dispute :—

SCHEDULE

“Whether the action of the management of Pipla Colliery of W.C.L. in dismissing from service Shri K. D. Patmase w.e.f. 14-11-83 was justified. If not, what relief is the workman entitled to?”

2. Shri K. D. Patmase was working with the management. He was charge-sheeted vide Charge-sheet dated 5-10-1983 and after holding the departmental enquiry his services were terminated with effect from 14-11-1983. Since there is a dispute in relation to the date of appointment and the post of the workman and since it is not necessary for me to deal with this part of the pleading, I confine myself to the charge levelled against the workman as also to find out whether the findings are perverse or the action of termination is justified and to what reliefs the workman is entitled. I may, however, add that vide proceedings dated 3-2-1992 the workman expressed that he does not question the validity of the enquiry, hence I am not to deal with Issue No. 1 & 3. I will confine myself to Issue no. 2, 4 & 5.

3. The charge levelled on the workman is as follows :—

“From the record it has been observed that you have been absenting regularly during the following period:—

July 83	August 83	Sept. 83
1 to 18	2,4,6,13,16	2,3,17

For the above action of yours constitutes misconduct under para 17(i)(o) for habitual absence without leave without sufficient cause of 17(i)(1) for causing wilful damage to work in progress.”

4. According to the workman, he was appointed on the post of CMM-1 on 21-5-1975. He was working as Mechanical fitter in Cat. IV. He was most senior as Mechanical Fitter, but his juniors were promoted as Mechanical fitter in Cat. IV. The workman resisted the said supersession and he was charge-sheeted out of revenge. He was never absent from duty from 1-7-83 to 18-7-83. He was under authorised medical leave and wages for that period have been paid to him. Thus the question of his being absent from 1-7-83 to 18-7-83 does not arise and the said charge does not stand. The Standing Orders are not applicable.

5. His absence for four days in August and 3 days in September, 83 do not constitute any misconduct as per Standing Orders. Cl. 17(i) reads as under :—

“If any workman concerned absented himself more than 10 consecutive days without any information then only an action can be taken by the management.”

6. Management has also adopted the attitude of hostile discrimination while punishing him. The

order of termination is liable to be quashed and he is to be reinstated with full back wages and all consequential benefits like seniority, promotion etc.

7. The management says that Shri Patmase was appointed at Pipla Colliery from 1-1-1978. The workman had never applied for leave or he was on medical leave as alleged by him for the period given above. He is a habitual absentee and the misconduct was proved against him in the departmental enquiry. He is not entitled to any relief. Reference is liable to be rejected.

8. Following issues were framed by my learned predecessor and Issues no. 1 & 3 have already been disposed of. Rest of the issues are being answered.

ISSUES:

1. Whether the domestic/departmental enquiry is proper and legal?

2. Whether the punishment awarded is proper and legal?

3. Whether the management is entitled to lead evidence before this Tribunal?

4. Whether the termination/action taken against the workman is justified on the facts of the case?

5. Relief and costs?

FINDINGS WITH REASONS :

9. The workman has proved 8 documents, Ex. W/1 to Ex. W/8 and has examined himself as W.W.1. Management has proved 4 documents, Ex. M/1 to Ex. M/4.

10. As already given above his absenteeism is divided into three parts.—

(1) In July 83 on 1, to 18th July.

(2) In August 83 on 2,4,6,13 & 16 August, 83.

(3) In Sept. 83—2, 3 & 17th Sept. 83.

11. During the departmental enquiry the workman admitted his absenteeism during the month of August, 83 and Sept. 83, but denied that he was absent from 1st July to 18th July, 1983. He had called for sick wages register, according to which the workman was paid wages for the period from 1st July to 18th July, 1983 on the ground that he was sick, the remaining absenteeism is five days in the month of August 83, three days in the month of Sept. 1983. The maximum punishment which should have been inflicted on him was to grant him leave without pay during the period of his absence in August and Sept. 1983. The punishment is obviously vindictive. He should not have been dismissed on account of his absence during the month of August and Sept. 1983. The better course would have been to convert this period into leave without pay. The workman was in service for long number of years. But he is a defaulter alright. In view of this, the punishment of dismissal is set aside. He is reinstated with 1/2 (half) back wages and continuity in service. He shall also be entitled to all benefits including promotion etc. No order as to costs. Award is given accordingly.

V. N. SHUKLA, Presiding Officer

नई दिल्ली, 22 अप्रैल 1992

का.आ. 1285:—औद्योगिक विवाद अधिनियम, 1947 (1947 की 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार निम्नचा काल्यारी आफ म. ई.सी. लि. के प्रबन्धन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, आसनसोल के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-4-92 को प्राप्त हुआ था।

[संख्या एल-22012/49/89-आई.आर. (सी-II)]

राजा लाल डेस्क अधिकारी

New Delhi, the 22nd April, 1992

S.O. 1285.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Nimcha Colliery of M/s. Ltd. and or their workmen, which was received by the Central Government on the 13-4-92).

(No. L-22012/49/89-IR(C.II))

RAJA LAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL ASANSOL

Reference No. 42/89

PRESENT :

Shri N. K. Saha, Presiding Officer

PARTIES :

Employers in relation to the Management of Nimcha Colliery of M/s. E.C. Ltd.

AND

Their workman

APPEARANCES :

For the Employers—Sri P. K. Das, Advocate.

For the Workman—Sri Bijoy Kumar, Jt. Secy. of Union

INDUSTRY : Coal.

STATE : West Bengal

Dated, the 31st March, 1992

AWARD

The Government of India in the Ministry of Labour in exercise of the powers conferred on them by clause (d) of sub-section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947, has referred the following dispute to this Tribunal for adjudication vide Ministry's letter No. L-22012 (49)/89-IR (C.II) dated 27-9-1989.

SCHEDULE

"Whether the action of the Management of Nimcha Colliery under Satgram Area of M/s. Eastern Coalfields Ltd., P. O. Jaykaynagar Dist. Burdwan in not regularising the services of Sri Swapan Mukherjee as Lamp Issue Clerk in Clerical Grade II w.e.f. May, 1980 was justified? If not, to what relief the workman concerned is entitled?"

2. The case of the union in brief is that Sri Swapan Mukherjee the concerned workman was a Cap Lamp Fitter in Category IV at Nimcha Colliery under Satgram Area of M/s. Eastern Coalfields Ltd. Due to exigency of work and in the interest of the benefit of

the management his services were utilised as Cap Lamp Issue Clerk in Category II w.e.f. May, 1980 and since then he has been working as Cap Lamp Issue Clerk. There was conciliation for his regularisation in the post. After conciliation he is getting difference of wages w.e.f. 1-10-86 and he is still getting the pay of Lamp Issue Clerk. The above fact confirms that there is vacant post of Lamp Issue Clerk in clerical Grade II against which the concerned workman has been continuously working.

Further attempts of conciliation filed for regularisation of the present workman. The matter was sent to the Ministry of Labour, Govt. of India and ultimately the dispute has been referred to this Tribunal for adjudication.

3. The management has filed written objection contending inter-alia that there cannot be any industrial dispute over the claim of regularisation and the Reference is incompetent and is not maintainable in law. Secondly the management has contended that as company for designating and placing of persons working in clerical jobs known as Cadre Scheme, any person or employee who claims to be absorbed or proper the scheme introduced by the management of the noted in the clerical post must be a Matriculate.

In case of exigency there may be occasion for requiring any employee to work in clerical job and for that the employee is paid difference of wages. There is no provision for absorbing any such person who is not a Matriculate in such clerical post even if he has worked for considerable period. The workman has been paid difference wages w.e.f. 1-1-87. The period prior to 1-1-87 must have been for a brief and not continuous period. The present workman is not fit for being regularised in the clerical post.

4. At the very outset Sri P. K. Das the learned Advocate for the management has urged before me that the prayer for regularisation cannot be a subject matter of industrial dispute and the Reference is incompetent and bad in law. But he could not produce any authority on this point. Considering the facts and circumstances of the present case and the language of the schedule of Reference, I find that the present Reference is not incompetent and it is maintainable in law. So the preliminary point is answered against the management.

Secondly Sri P. K. Das the learned Advocate for the management has raised objection that the present dispute is a premature one as it was not placed before the Standardisation Committee. In this connection he has taken me through Chapter 16 (page 122 and onwards) and Chapter 30 (page 148 and onwards) of NCWA-III. By placing those provisions he has urged before me that for such regularisation an employee must approach the management and it should be considered through a Standardisation Committee. In the instant case as the matter was not channelised through a Standardisation Committee, so this Tribunal must hold that it is a premature one and the workman is not entitled to get any relief at this stage. On this point Sri Bijoy Kumar the learned Advocate for the union has urged before me that it is belated plea of the management. There is no such plea in the written statement of the management and the management cannot raise such plea as it is not in the pleadings. I have carefully gone through the written statement filed by the management. But really there

is no such plea. So I find that the management cannot be allowed to raise such plea at this stage.

5. Be that as it may, from the provisions placed before me by Sri P. K. Das the learned Advocate for the management, I am unable to say that the claim of the workman is premature one as it has not come after refusal by the Standardisation Committee. Sri Das has urged before me that every item of agreement must come through that Committee for its implementation. But I am unable to look eye to eye with him as I find that the management has allowed this workman to work for a considerable period without break in a higher grade and it must be held that his efficiency was never questioned. I find that the question of regularisation like the present one need not come through Standardisation Committee for its implementation. So his point is also answered against the management.

6. The main objection of the management according to written statement is that the workman cannot be promoted to the post of clerical grade as he is not a Matriculate. It is true that the present workman is not a Matriculate. But it is admitted that the workman has been working in the clerical post as Cap Lamp Issue Clerk since 1-1-87 without break and he is getting his difference of wages. Sri Bijoy Kumar the learned Advocate for the union has drawn the attention of this Tribunal to Clause III of Cadre Scheme for Ministerial Staff-Secretariat cadre and Cash personnel in NCWA-III which reads as follows :

"3. It was further agreed that in the Cadre Scheme for General Clerical Cadre-Annexure-VII 1 of I. No. 34 dated 17-7-84 a new note Sl. No. (iv) as stated below will be added.

"(iv) Educational qualification will not be a bar for promotion of the existing employees into the post of Clerk Grade-I in Clerical Grade."

By placing the same Sri Kumar has urged before me that as the present workman has been working continuously for a pretty long period, the workman is entitled for being regularised in the clerical post. In support of his contention he has also cited before me the case reported in IFLR 1990, Part-3, Page 160. Considering the principles laid down in this case I find that the present workman has acquired the right to be regularised in the clerical post as he has been working continuously in the present post for more than three years and during that period his efficiency was never questioned by the authority. That shows that the workman is efficient and competent for the post.

7. In the result I find that the action of the management in not regularising the services of Sri Swapan Mukherjee the concerned workman as Lamp Issue Clerk in clerical Grade-II is not justified. The services of Sri Swapan Mukherjee as Lamp Issue Clerk in clerical Grade-II shall be regularised w.e.f. 1-1-87 and he should be given the status of Lamp Issue Clerk in clerical Grade-II from 1-1-87 within one month from the date of publication of the award.

This is my award.

N. K. SAHA, Presiding Officer

नई दिल्ली 22 अप्रैल 1992

का.प्र. 1286.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार परास्कोल कोयलेरी प्रा. लि. ई.सी. लि. के प्रबंधन के संलग्न विवादकों और उनके कर्मचारियों के बीच, अनुसूच में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, आसनसोल के पत्राट का प्रकाशन करता है, जो केन्द्रीय सरकार की 13-4-92 का प्राप्ति हुआ था।

[सकल (एन-22012/400/90-आई.आर. (सी-11)]

राजा लाल ईस्क अधिकारी

New Delhi, the 22nd April, 1992

S.O. 1286.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Parascole Colliery of M/s. E.C. Ltd. and of their workmen, which was received by the Central Government on the 13-4-1992.

[No. L-22012/400/90-IR(C.II)]

RAJA LAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL, ASANSOL.

Reference No. 16/91

PRESENT:

Shri N. K. Saha, Presiding Officer.

PARTIES :

Employers in relation to the Management of
Parascole Colliery of M/s. E.C. Ltd.

AND

Their Workman.

APPEARANCES:

For the Employers—Sri P. Banerjee, Advocate.

For the Workman—Sri Manoj Mukherjee, Advocate.

INDUSTRY : Coal. STATE : West Bengal.

Dated, the 27th March, 1992

AWARD

The Government of India in the Ministry of Labour in exercise of the powers conferred on them by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, has referred the following dispute to this Tribunal for adjudication vide Ministry's Order No. L-22012(400)/90-IR (C.II) dated the 10th April, 1991.

Schedule

"Whether the action of the management of Parascole Colliery of M/s. E.C.L., P.O. Kajoragram, Distt. (Burdwan) in refusing employment to Shri Banchha Borora, W. Loader is justified? If not, to what relief is the concerned workman entitled?"

2. The case of the union in brief is that Sri Banchha Borora the concerned workman was a Wagon Loader of Parascole Colliery. The said concerned workman suddenly became lunatic since November 1986

and became unable to attend his work. The said workman was missing from the colliery. The wife of the concerned workman informed the management about the said fact by a letter dated 21-2-87 and requested the management to trace out the workman. She also brought her distressed condition to the notice of the management.

In the meantime Sri Borora was traced out and his wife informed the management on 11-2-1988 about that fact and also informed that the workman was undergoing psychiatric treatment.

After recovery the workman returned to the colliery to attend his duty but he was refused employment. The act of the management is highly illegal and it has violated the principles of natural justice. There was no enquiry against the workman.

3. The dispute was raised on behalf of the workman. But the attempts of conciliation failed and the matter was sent to the Ministry of Labour, Government of India. Ultimately the dispute has been referred to this Tribunal for adjudication.

4. The case of the management in brief is that the workman was absenting himself w.e.f. 28-2-1986 without any information and permission from the competent authority. The workman was served with a chargesheet dated 22-4-1986 and the workman submitted his reply along with a medical certificate. The explanation given by the workman was not satisfactory. So there was a domestic enquiry against the workman. But in spite of the service of due notice the workman did not appear in the domestic enquiry. Consequently the domestic enquiry was held ex parte. In the domestic enquiry he was found guilty and on the result of that enquiry he was dismissed from service. The domestic enquiry was fairly and properly held. There was no irregularity. The management has denied all the material averments made by the union in their written statement.

5. At the initial stage the union raised objection that the domestic enquiry was not properly and fairly held. But during hearing of the case Sri Manoj Mukherjee the learned Advocate for the union with his usual fairness submitted that he had gone through the papers of the domestic enquiry and he was satisfied that the domestic enquiry was properly and fairly held observing the principles of natural justice. I had also gone through the papers of the domestic enquiry and found that there was no wrong in the domestic enquiry. Accordingly on 17-2-92 it was held that the domestic enquiry was properly and fairly held observing the principles of natural justice and the preliminary point was answered in favour of the management.

6. During the hearing of the case on merit Sri P. Banerjee the learned Advocate for the management has urged before me that the dispute raised in this Reference is vague and indefinite and lacking in material particulars. He has further urged that the language of the Reference as stated in the Schedule is also not proper and the Reference is bad in law. Considering the nature of the dispute between the parties and the objection taken by the management, I find that no material particulars are lacking in this case and the Reference is not vague and indefinite. The

language of the schedule is very clear. I am also not prepared to hold that the present Reference is bad in law. In this Reference it has been stated whether the action of the management in refusing employment to the concerned workman is justified. The workman has come with the story that he came to join his duty and he was refused to join. It has been urged before me that it cannot be said that he was refused employment. But I am unable to look eye to eye with the learned Lawyer for the management. I find that the scope of the present Reference is wide enough to include that the workman was refused to join his duty. So it cannot be said that the Reference is bad in law.

7. We have already found that the domestic enquiry was properly and fairly held. So this Tribunal has a limited scope U.S. 11-A of the Industrial Dispute Act, 1947 to consider whether the punishment imposed in this case is proportionate with the alleged offence. It may be mentioned further that there is no scope for adducing fresh evidence by any of the parties.

8. In this case the workman was served with a chargesheet which reads as follows :

"Eastern Coalfields Limited

(A Subsidiary of Coal India Ltd.)

Office of the Agent,
Parascole Colliery,
P. O. Kajoragram.

Ref. No. PC/C-6/86-62

Dated 22-4-86

To

Sri Banchha Borora (W.L.)
Vill. Khanda Khalis,
P.O. Siohjs, Dt. Ganjam.

Charge Sheet

It has been observed from the record that you are habitual in absenting frequently. Besides, presently you are absenting from 28-2-86.

The said act of yours is a gross misconduct under Sec. 17(i)(n) of the Standing Order enforced in the Colliery.

You are directed to explain in writing within 48 hours of the receipt of this letter as to why disciplinary action should not be taken against you.

Sd/- Illegible
Manager/Agent
Parascole Colliery."

The learned Advocate for the management has urged before me that the present workman was in the habit of absenting frequently. But there is no mention in the chargesheet that he absented on previous occasions without any authority. It may be that he took leave very frequently but that does not make any offence. At the last stage of hearing of this case the management has filed certain documents to show that in a previous occasion he also absented himself from duty without authority but those documents cannot be accepted at this stage as the same were not produced during the domestic enquiry. So it cannot be

said that the workman was in the habit of absenting himself frequently without authority.

9. Now we are to consider the second count of the charge. In the second count of the charge it has been alleged that the workman was absenting himself from duty w.e.f. 28-2-86. It has been amply proved during the domestic enquiry that the workman absented this time without any authority and there is no wrong in the findings of the domestic enquiry in this respect.

10. So we are to see whether the punishment imposed in this case is proportionate with the alleged offence. Sri P. Banerjee the learned Advocate for the management and Mrs. S.L. Sharma the Personnel Officer of the management have urged before me with all force that if in a case like the present one, the workman be reinstated in service the management will suffer irreparable loss and the administration will collapse. They have urged before me that the basic intent of the industry must be taken into consideration by the Tribunal at the time of exercising its judicial discretion U.S. 11-A of the Industrial Disputes Act, 1947. They have urged before me that the colliery is an industry of public utility service. It has suffered much for the absence of the present workman. So the workman must not be reinstated in service. With due respect to their contention I like to say that it is settled principle that the justice must be tempered with mercy. Perhaps for this reason the power of administering justice has been kept in the hand of the human being and it has not been computerised.

11. The Hon'ble Supreme Court has held that the capital punishment shall be imposed only in a rare of the rarest cases. At this present age the dismissal from service is worse than capital punishment. So before imposing dismissal from service as punishment we shall have to think thrice over this aspect. This poor wagon loader has come with the story that he became lunatic and for that reasons he could not attend his duty. It is true that he could not produce any proper evidence to show that he was really a lunatic. But it must be considered that surely there was some reason which prevented a family man like him from attending his duty. Sri P. Banerjee and Mrs. Sharma have urged before me that a lunatic must not be reinstated in service. With due respect to their contention I like to say as the workman has come with the story that he has become fit for duty, he may be allowed to join his service after medical examination by a Board of Doctors. I find that the punishment imposed in this case is not proportionate with the alleged offence. I find that in a case like the present one it will meet the ends of justice if the workman be reinstated in service forfeiting the entire back wages.

12. In the result I find that the action of the management is not justified. The concerned workman shall be reinstated in service within six months from the date of publication of the award without any back wages provided he is found medically fit to join his duty by a Board of Doctors of any Central Govt. Hospital. The entire back wages of the workman be forfeited as penalty.

This is my award.

N. K. SAHA, Presiding Officer

नई दिल्ली, 22 अप्रैल 1992

का.प्र. 1287:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाद्य निगम पटना के प्रबंधन के संबंध निवासियों और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, न. 2, धनबाद के पंचद को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-4-92 को प्राप्त हुआ था।

[संख्या एन-22012/2/एफ 91-आई.प्र. (सी-11)]

राजा लाल, जेम्स अधिकारी

S.O. 1287.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 2, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Food Corpn. of India, Patna and of their workmen, which was received by the Central Government on 8-4-92.

[No. L-22012/F/91-IR(C. 11)]

RAJA LAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD PRESENT :

Sri B. Ram, Presiding Officer.

In the matter of an industrial dispute under Section 10(1)(d) of the I.D. Act, 1947.

Reference No. 103 of 1991

PARTIES :

Employers in relation to the management of Food Corporation of India, Patna and their workmen.

APPEARANCES:

On behalf of the workmen.—Shri Vijavendra Kumar State Joint Secretary FCI Executive Staff Union, Patna.

On behalf of the employers.—Shri I. C. Sardana, District Manager, FCI, Hazaribagh.

STATE : Bihar.

INDUSTRY : Food

Dated, Dhanbad, the 27th March, 1992

AWARD

The Govt. of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-22012/2/F/91-I.R. (Coal), dated, the 11th September, 1991.

SCHEDULE

“Whether the action of the Dist. Manager, Food Corporation of India, Hazaribagh in retrenching/terminating the services of S/ Sri Bipin Kumar (2) Rajesh Kumar, (3) Chandra Shankar Sharma (4) Atul Pd. Sharma (5) Bipin Kumar Singh (6) Bhupendra Pd. Singh (7) Sanjeev Kumar (8) Bibhakar Sharma, (9) Jagannath Pd. (10) Narayan Mahto (11) Nunu Pandit, (12) Ruplal Yadav (13) Sauri (14) Arjun Mandal (15) Meghan Mahto (16) Ram Pravesh Kumar (17) Rajesh Sharma (18) Priya Rajan and (19) Krishna Nandan,

Ex. Casual Workers of FSD Suriya Dist. Hazaribagh w.e.f. 1-10-85 without assigning any reason and in contravention of Section 25F of the I.D. Act, 1947 and in not regularising them is legal and justified ? If not, to what relief the workman concerned are entitled to ?”

2. The concerned workmen claim regularisation with full back wages and consequential benefits with effect from 1-10-85. As per W. S. filed by them it is stated that they were employed by the management of FCI at Food Storage Depot Suriya, Hazaribagh as casual labour-cum-water carrier-cum-messenger to perform duty like filling the bags, sweep the godown and office, to provide drinking water, and also at times to act as Messenger as directed by their superiors. The concerned workmen were working regularly and performing their duties as regular workmen but suddenly on 1-10-85 their names were struck off from the roll and they were stopped from attending the job by the Asst. Depot Superintendent. FCI Suriya verbally in gross violation of the provision of Section 25F of the I. D. Act. It is stated that no notice showing reasons for their retrenchment nor notice pay in lieu of notice and compensation was given to the concerned workmen and therefore their stoppage of work will amount to retrenchment under Section 2(OO) of the I. D. Act and it was illegal and void ab initio.

It is further stated that all the concerned workmen have completed more than 240 days service in 12 calendar months as provided under Section 25B of the I. D. Act. Since it was in violation of the provision of Section 25F of the I. D. Act it will be deemed that all the concerned workmen will be in service from the date of their retrenchment. It was also contended that some of the concerned workmen are graduate and thus they are entitled for their regularisation in Class III post in view of the Circular dated 6-5-87. There was a similar case vide Ref. 6/90 in which the Tribunal passed the Award in favour of the concerned workmen which was later on upheld by the Hon'ble High Court, Patna and therefore the concerned workmen are entitled to get the same and similar relief.

4. The management has filed W. S. challenging the very basis of the case and denied relationship of employer and employee between the management and the concerned workmen. According to the management the FCI established a food storage depot at Suriya which was previously under the administrative jurisdiction of District Manager, Gaya and from January, 1988 it has come under the administrative jurisdiction of District Manager, Hazaribagh. The management has completely denied that these concerned workmen serve and except 6 as mentioned in para-10 of the W. S. were ever employees of the management. It is stated that only during the year 1984 the management required to engage some casual workers. Only 6 out of 19 concerned persons were employed in Suriya Depot and they were engaged as casual labour. These 6 persons were Shri Jagannath Pd. Sl. No. 9, Narayan Mahato, Sl. No. 10, Nunu Pandit Sl. No. 11, Ruplal Yadav Sl. No. 12, Arjun Mondal (Sl. No. 14, Meghan Mahato Sl. No. 15. These 6 concerned workmen worked during the period from March, 1984 to September, 1984 including the month of August, 1984 and they never completed 240 days

of attendance. It has been flatly denied that these 6 persons were engaged in the year 1980-81, 82, 83 and 1985. The rest of the persons according to the management are stranger and no relationship of employer and employee ever existed between the management and the above persons. In view of this fact it has been submitted that the concerned workmen cannot get any relief and the award be passed in favour of the management.

5. The point for consideration is as to whether the concerned workmen were employed as casual labour by the management of FCI and there was relationship of employer and employee and that they completed 240 days attendance in a year. If so, whether the action of the management in stopping the concerned 19 workmen from duty is justified?

6. According to the management only 6 concerned workmen out of 19 were engaged as casual labour during the period from March, 1984 to September, 1984, excluding August, 1984. We find from the records that the management did not file Attendance sheet of the concerned workmen although a petition to this effect was filed by the concerned workmen. However, the photo copy of the attendance sheet have been filed on behalf of the workmen which have already been marked Ext. W-1 and W-15 series in this case. There are some other documents apart from the Attendance sheet which will exclusively show that the concerned workmen were engaged as casual labour since 1976 and the discussion of those papers will remarkably reveal that the management had engaged the concerned 19 workmen. I may refer to these documents with reference to the evidence of MW-1 Shri R. K. Sinha. He was posted at Suriya Depot for the period from 1-1-82 to 31-12-85. According to him only 4 casual labourers were engaged by the management at Suriya depot and they were Jagarnath Prasad, Narayan Mahato, Nunu Pandit and Ruplal Yadav. However, this statement is against the W. S. of the management and admittedly there are 6 concerned workmen out of 19 who had been engaged as casual labour by the management. He has proved the payment bill of the Casual labourers right from April, 1982 to December, 1983 which was prepared and countersigned by him. They were prepared by the office staff under his signature. The attendance sheet-cum-payment bill have been marked Ext. W-1 to W-11/19. There are four concerned workmen in this Attendance sheet namely Jagarnath Prasad, Ruplal Yadav, Nunu Pandit and Narayan Mahato. These are attendance sheet-cum-payment sheet for the period from April, 1982 to December 1983. The attendance of these concerned workmen when counted exceeds 240 days in a year. There is certificate duly granted by the depot incharge of the FCI depot Suriya to the effect that casual labours had been engaged in various quality control works like brushing and cleaning of stacks spraying fumigation of infested stacks and other allied works as well as in different time of storage works like collection of spilled grains and re-filling the same into bags, cleaning and other related works. The witness has stated that these persons as shown in the payment sheet were working before he joined Suriya depot. This means that atleast these four persons were working from before 1982. At this very stage I may refer to another photo copy of the Attendance Sheet which have been marked Ext. W-15

series wherein the names of the other concerned workmen appears. In Sl. No. 1 and 2 the names of one Hansraj Singh and Narmdeswar Roy appears who were concerned workmen in Ref. No. 6/90. This attendance sheet appertain to the period from October, 1984 to July, 1985. The number of days if counted will exceed 240 days in case of each of the concerned workmen. At least these two important documents are more than sufficient to show that these concerned workmen were engaged by the management and they worked as casual labour at Suriya depot for more than 240 days.

7. There are some other documents also which will falsify the stand taken by the management. MW-1 has proved few certificates duly granted by him and also by one Shri K. C. Ram. The photo copy of the certificate dated 20-3-81 which was granted by Shri K. C. Ram has been marked Ext. W-2. This is with respect to Shri Ruplal Yadav one of the concerned workman. The certificate shows that he was casual labour in F.S.D. Suriya since August, 1976 and during that period he was found working honestly and obediently. The witness himself being the employee of the management has granted two certificates in favour of the same concerned workmen which are Ext. W-3 and W-3/1. The certificate was granted to the effect that Shri Ruplal Yadav was working as casual labour since 1976 on daily wage basis. These two certificates are dated 3-12-82 and 23-12-85. This means that the concerned workmen were working much before from 1980 and what to speak of 1984. The witness was very honest in his statement when he stated that he granted the certificate on the basis of some records, registers and the attendance register available at the depot. In view of this documentary evidence the assertion of the management that no concerned workman was engaged during the year 1982 and 1983 fall to the ground like house of cards.

8. There are some other documents which are definitely in favour of the concerned workmen. Ext. W-5 series are the photo copy of the provisional sanction for engagement of casual labour for the various period. Ext. W-7 is the photo copy of the Award passed in Ref. No. 6/90. In that reference there were only two persons namely Narmdeswar Roy and Shri Hansraj Singh, ex-casual workers. Their case was also similar to the case of the concerned workmen. The learned counsel for the workmen wanted to impress upon by filing this documents that the concerned workmen of that case were held to be the employees of the management of FCI. The management went up before the Hon'ble High Court by filing Writ Petition against the Award. The photo copy of the order, passed by the Hon'ble High Court, Patna is Ext. W-9 whereby the award given by the Tribunal was upheld by the Hon'ble Court. It may be repeated here by this document that the management appears to have been caught in his own net. Lastly the witness (MW-1) stated that the workers who demanded certificate from him, he granted after verification. He also stated that there was every presumption that pay bill and attendance register must be lying with the depot office at Suriya.

9. WW-1 is Shri Narmdeswar Roy. He has come to say that he was also working as Watchman in the District Office, FCI Hazaribagh. Similarly Hansraj

Singh was also a watchman there. The witness has proved the attendance Register which has been marked Ext. W-15 series. According to him all the concerned workmen were stopped from duty with effect from 1-10-85. WW-2 is one Shri Bhagirath Prasad Singh. According to him in the year 1986-1987 about 75 casual labourers were regularised as watchman. They were regularised on the post of Watchman because they were not graduate. According to him there was a circular to the effect that on or before 2-5-86 all the casual labourers be regularised according to their qualifications. Lastly WW-3, Shri Atul Prasad Sharma one of the concerned workman has come to say that he was casual labour for the period from 1-10-84 to 30-9-85. There were about 20 other casual labourers and their main function was to sweep the floor, serve tea, water and similar nature of work. He has denied to have been engaged by the contractor. From the evidence of these witnesses it is well established that the concerned 19 workmen were engaged by the management of FCI and they worked as casual labour for more than 240 days in a calendar year. So I am to hold that there was relationship of employer and employee in between the management of FCI and the concerned workmen. I am also to hold that they worked for more than 240 days.

10. As per discussions made above it is clear that the concerned workmen discharged continuous service as provided under Section 25B of the I.D. Act. In coming to Section 25F of the I.D. Act it will be seen that there were certain conditions precedent to retrenchment of the workmen. According to the provision no workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

- (a) the workman has been given one month's notice in writing indicating the reason for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice.

Sub-clause (b) of the Section also provides for compensation equivalent to 15 days average pay. We find that definitely there was no compliance at all of Section 25F of the I.D. Act, 1947 before terminating/retrenching the services of the concerned workmen.

11. From the discussions made above I am to hold that the concerned workmen were employed as casual labourers by the management of FCI and they all had completed 240 days of their attendance and in view of these facts they deserve their regularisation. It has been alleged on behalf of the workmen that the concerned workmen should be regularised according to their qualification but nothing has been shown as to what sort of qualification these workmen are holding. No graduate has been examined to state that he was the employee qualified to hold any post in Grade-III. Under the circumstances all the 19 concerned workmen should be regularised as Watchmen with effect from 1-10-85 in Class IV.

In the result, I hold that the action of the management in retrenching/terminating the service of the concerned 19 workmen with effect from 1-10-85 without assigning any reason and in contravention of Section

25F of the I.D. Act, 1947 is not justified. As the management has not complied with the provision of Section 25F of the I.D. Act it will be deemed that the concerned workmen continued to be in the employment of the management and are entitled to the arrears of back wages and other benefits from 1-10-85 in the regular scale of pay of class IV of the FCI. The management is further directed to regularise the services of the concerned workmen with effect from 1-10-85 as Watchmen. The management is further directed to allow the concerned workmen to join their duty within one month from the date of publication of the Award and the management should pay them arrears of pay and other benefits of class IV with effect from 1-10-85 within one month from the date of publication of the Award.

This is my Award.

B. RAM, Presiding Officer

नई दिल्ली 22 अप्रैल, 1992

का प्रा 1233 -- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाद्य निगम, कर्नूल के प्रबंध क्षेत्र के संबंध निराकरण और उनके कार्यों के बीच, अनुवाद में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अप्रिकरण, हैदराबाद के पंचपट का प्रकाशन करती है, जो केन्द्रीय सरकार को 20-4-92 को प्राप्त हुआ था।

[संख्या एल-42012/13/86-डी-5/सी-II(बी)/आई आर-सी-II]

राजा लाल, डेस्क अधिकारी

New Delhi, the 22nd April, 1992

S.O. 1288.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Food Corporation of India, Kurnool and their workmen, which was received by the Central Government on the 20-4-92.

[No. L-42012/13/86-D. V/D.II(B)/IR(C.II)]

RAJA LAL, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL AT HYDERABAD

PRESENT :

Sri G. Krishna Rao. B.A., B.L., Industrial Tribunal.

Dated the Thirty first day of March, Nineteen hundred and ninety two

INDUSTRIAL DISPUTE NO. 79 OF 1990

BETWEEN

Shri Shaikh Buranuddin C/o Md. Hiskin Jobal, 43/206, N.R. Peta, Kurnool 518 004 (AP)Petitioner

AND

(1) The Sr. Regional Manager, Food Corporation of India, Mukhramjahi Road, Hyderabad.

(2) The Dist. Manager, Food Corporation of India Ashok Nagar, Kurnool-518 005 (AP)

... Respondents

APPEARANCES :

None for the petitioner

Sri K. Satyanarayana Rao, Advocate for the respondents 1 & 2.

AWARD

This reference is made by the Govt. of India, Ministry of Labour by its Order No. L-42012.13/86-D.V/D.II(B)/R(C.II) dt. 20-12-1990, for adjudication of the Industrial Dispute between the Management of Food Corporation of India, Kurnool and their workmen, setting forth the point for adjudication in the schedule appended thereto as follows :

"Whether the management of Food Corporation of India, Kurnool (A.P.) are justified in not giving an opportunity in terms of Section 25H of the Industrial Disputes Act, 1947 to Shri Shaikh Buranuddin, a retrenched daily rated watchman ? If not to what relief the workman concerned is entitled ?"

2. This reference was registered as Industrial Dispute No. 79 of 1990 on the file of this Tribunal. After receiving the notices from this Tribunal, the petitioner-workman did not put in his appearance and remained ex-parte. The respondents 1 & 2 filed their counters. The averments of the counter filed by the first respondent read as follows :

The respondent herein submits that the reference of the above I.D. is not maintainable either in law or on facts. The petitioner was engaged intermittently during 1976. The petitioner never worked for 240 days. The provisions of Sections 25F or 25G and or 25H of the Industrial Disputes Act are not applicable to the facts of the present case. The petitioner is not entitled for any relief in the above case. There is no dispute between the petitioner and the respondent. The alleged dispute relates to 1976 and the reference of the above Industrial Dispute has been made for the first time in 1990 and it hopelessly suffers from latches. Therefore the respondent herein prays that this Hon'ble Tribunal may be pleased to reject the reference and pass a NIL award.

The averments of the counter filed by the second respondent read as follows :

The respondent herein submit that the reference of the above I.D. is not maintainable either in law or on facts. The petitioner was engaged intermittently during 1976. The petitioner never worked for 240 days. The provisions of Sections 25F or 25G and or 25H of the Industrial Disputes Act are not applicable to the facts of the present case. The petitioner is not entitled for any relief in the above case. There is no dispute between the petitioner and the respondent. The alleged dispute relates to 1976 and the reference of the above industrial dispute has been made for the first time in 1990, and it hopelessly suffers from latches. Therefore the respondent herein prays that this Hon'ble Tribunal may be pleased to reject the reference and pass a NIL award.

3 The petitioner remained ex-parte and did not adduce any evidence. R.W1 was examined for the respondent and the respondents' side was closed. No documents were marked for the respondents.

4. The point for adjudication is whether the management of Food Corporation of India, Kurnool

(A.P.) are justified in not giving an opportunity in terms of Section 25H of the Industrial Disputes Act, 1947 to Shri Shaikh Buranuddin, a retrenched daily rated watchman ? If not to what relief the workman concerned is entitled ?

5. POINT : The concerned workman in this I.D. did not choose to appear before this Tribunal and file any claims statement putting forth his claim against the respondent. On the other hand, the respondents filed counters and stated that the petitioner was engaged intermittently during 1976, that the petitioner never worked for 240 days that the provisions of Sections 25F or 25G and or 25H of the I.D. Act are not applicable to the facts of the present case, that the petitioner is not entitled for any relief in this case, that there is no dispute between the petitioner and the respondent and that the alleged dispute relates to 1976 and the reference of the above Industrial Dispute has been made for the first time in 1990 and it hopelessly suffers from latches. The evidence of M.W.1 is to the effect that as per the records the petitioner-workman was engaged as daily rated watchman at hired godown at Kurnool on 18-8-1976, that the petitioner worked for 141 days from 18-8-1976 till 17-1-1977, that thereafter the petitioner was engaged as the godown was vacated, that there is no appointment order issued to the petitioner and he was only engaged by the department on daily rated basis and that the petitioner is not engaged for any relief in this case.

6. As seen from the records available and the evidence adduced by the respondents, it is clear that there is no material available on record to say that the petitioner's case is established and that the petitioner is entitled for any relief in this case. As seen from the record available, the petitioner was engaged on daily wages for the period of 141 days only within the period of one year and that too only once and there is no evidence brought on record that he was engaged for more than 240 days within a period of one year before he was retrenched from the service. I am of opinion that there is no case made out to grant any relief to the petitioner in this case and therefore I held that the petitioner is not entitled for any relief in this case. Hence I answer the point accordingly.

7. In the result, an award is passed holding that the petitioner is not entitled for any relief in this case. There will be no order as to costs under the facts and circumstances of the case.

Dictated to the steno-typist, transcribed by him, corrected by me and given under my hand and the seal of this Tribunal this the 31st day of March, 1992.

G. KRISHNA RAO, Industrial Tribunal
Appendix of evidence

Witness examined on behalf of petitioner	Witness examined on behalf of the respondents.
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NIL	M.W.1 : Sri K.V.V.S. Murty
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Documents marked for the petitioner	NIL
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Documents marked for the respondents	NIL
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सई दिवसी, 23 अप्रैल, 1992

का.आ. 1289.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में सन 33-ए केन्द्रीय सरकार एम.पी. स्टेट माइनिंग कार्पोरेशन राजेन्द्र नगर, सतना (म.प्र.) के पक्ष त्व के संबंध नियोजकों और उनके कार्यों के संबंध, अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-4-92 को प्राप्त हुआ था।

[संख्या एल-29025/2/92-आई.घार. (विधि)]
बी.एम. डेविड, डेस्क अधिकारी

New Delhi, the 23rd April, 1992

S.O. 1289.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), under Section 33-A the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M.P. State Mining Corporation, Rajender Nagar, Satna (M.P.) and their workmen, which was received by the Central Government on the 16-4-92.

[No. L.29025/2/92-IR(Misc)]

B. M. DAVID, Desk Officer.

ANNEXURE

BEFORE HON'BLE SHRI V. N. SHUKLA;
PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-cum-
LABOUR COURT, JABALPUR (M.P.)

CASE NO. CGIT/LC(A)(4)/1991
UNDER SEC. 33-A OIF I.D. ACT.

General Secretary, Satna Stone & Lime Workers Union, 79/10, Krishna Nagar, Satna (M.P.)
Applicant

VERSUS

Asstt. General Manager, M.P. State Mining Corporation, Rajendra Nagar, Satna (MP)—Opp. Party
(Non-Applicant)

APPEARANCES:

For Applicant—Shri C. S. Tiwari.

For Opp. Party—Shri B. S. Bisen, Advocate.

INDUSTRY : Stone Mining DISTRICT : SATNA
(M.P.)

AWARD

Dated, March 30th, 1992

This is an application under Sec. 33-A of the I.D. Act for the following reliefs :—

- (1) The appointment of an Advocate as Enquiry Officer is incorrect and against law.
- (2) Copies of orders and evidence of witnesses recorded during enquiry be ordered to be given to him.
- (3) Subsistence allowance to each suspended employee be ordered to be paid till the enquiry proceedings continue.

(4) To stop the enquiry till this application is not decided.

2. It is alleged that since Ref. case No. CGIT/LC(R)(215)/1989 in relation to fixation of wages is pending before this Tribunal, hence no departmental enquiry could be held against the workmen. That a part, the departmental enquiry is not being validly held. An Advocate is holding the departmental enquiry, hence they should also be permitted to employ an Advocate. Appointment of Enquiry Officer is illegal. The workmen are not being paid subsistence allowance, hence this application for the aforementioned reliefs.

3. During the pendency of the application another application was moved by the applicant for issuing order to grant subsistence allowance to the applicants.

4. The tenability of the applications has been challenged by the opp. party. The Opp. Party say that the D.E. has been properly held. There is no violation of any law, the application is premature and is liable to be rejected.

5. The application for interim relief is also not tenable.

6. At the outset, it can be pointed out that the workmen concerned as pleaded by the applicant are not connected with the dispute but concerned with the dispute. Sec. 33A of the I.D. Act can only be invoked in case there is a violation of S.33 of the I.D. Act. There is nothing to show that service conditions are being changed or workmen are being discharged or punished for the misconduct. Thus the application is premature. Reliefs sought for cannot be given under S.33A of the I.D. Act. It may, however, be observed that the workmen, if so entitled, be granted subsistence allowance during the pendency of departmental enquiry. With these observations both the applications are dismissed without any order as to costs.

V. N. SHUKLA, Presiding Officer

सई दिवसी, 25 अप्रैल, 1992

का.आ. 1290.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डिजिटल इंजीनियर, टेलीकोम, वाराणसी के प्रबंधन के संबंध निरीक्षणों और उनके कार्यों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 23 अप्रैल 1992 को प्राप्त हुआ था।

[सं.एल. 40012/72/90-आई.आई.यू.]
के.वी.बी. उन्नी, डेस्क अधिकारी

New Delhi, the 25th April, 1992

S.O. 1290.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Divisional Engineer (Telecom) Varanasi and their workmen, which was received by the Central Government on 23-4-92.

[No. L-40012/72/90-IRDU)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE SRI ARJAN DEV PRESIDING OFFICER
CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL CUM LABOUR COURT, PANDU
NAGAR, KANPUR

Industrial Dispute No. 7 of 1991

In the matter of dispute between :

Sri Jai Prakash Singh,
C/o Sri S. B. Singh,
District Secretary,

Bhartiya Telephone Karamchhari Sangh,
(Group D) Mahanagar, Telephone,
Lucknow.

AND

The Divisional Engineer Telecom Optical Fibre
Telecom Project Varanasi.

AWARD

1. The Central Government, Ministry of Labour, vide its notification No. L-40012/72/90/IR-D.U. dated 31-1-91 has referred the following dispute for adjudication to this Tribunal :—

Whether the Divisional Engineer Telegraph Optical Fibre Telecom Project, Varanasi is justified in terminating the services of Sri Jai Prakash Singh Mazdoor w.e.f. 1-8-88 ? If not, to what relief the workman concerned is entitled?

2. The workman's case is that he had been working as a labour under U. P. Mandal Akhikari Tar Faridabad, since 4-4-82. In the year 1982-83 and 1986, he had worked for more than 240 days. He alleges that vide circular letter No. Estt/G-39/85-Ch-II/2 such workmen as had been employed after 7-5-85 should not be allowed to continue in service and those who had been working from before 7-5-85, should be employed in other units of the management. In pursuance of the said instructions he was kept in the optical Fibre Unit of the management. He had worked from 1-1-88 to 31-7-88 whereafter his services were terminated on the ground that his services were no longer required. Since he had not been paid any retrenchment compensation or given notice, the action of the management in terminating his services is illegal. He has, therefore, prayed for his reinstatement in service with full back wages and all consequential benefits.

3. The case proceeded ex parte against the management. In support of his case, the workman has also filed his affidavit, and a few documents.

4. I have heard the workman and have gone through the evidence on record. With his affidavit the workman has filed two certificates issued to him by SDO Telegraph Faizabad and Shahjahanpur respectively. From the two certificates it becomes clear that he never completed 240 days of working in 1982, 1983, 1984 and 1985, it was only in 1986 that he worked for more than 240 days. Thereafter as per facts alleged in the claim statement he was engaged after a span of about 15 months on 1-1-88 and worked till 31-7-88. It means that during the period of 12 months preceding the date of his termination of his services he had worked only for 212 days and as such 1104 GI/92—8

in his case section 25 F I. D. Act would not apply. Because of it the question of giving him notice or notice pay and payment of retrenchment compensation does not arise.

5. In his affidavit he has deposed that after terminating his services new persons were engaged against Rules. He has alleged violation of section 25G I.D. Act. Since he had not been in continuous service for one year before termination of his service, in view of rule 77 and 78 of I.D. (Central) Rules 1957, section 25G I.D. Act will not apply in his case.

6. Thus despite the fact that the case proceeded ex parte against the management, the workman has failed to prove his case. Hence, it is held that the action of the management in terminating his services cannot be said as unjustified. He is entitled to no relief.

7. Reference is answered accordingly.

ARJAN DEV, Presiding Officer

नई दिल्ली, 25 अप्रैल, 1992

का.भा. 1291 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार उत्तर रेलवे, कानपुर के प्रबंधन के संघर्ष निरोधकों और उनके कार्यकर्ताओं के बीच, अनुबंध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचपट को प्रकाशित करने है, जो केन्द्रीय सरकार को 23-4-92 को प्राप्त हुआ था।

[सं. एल-41011/14/90-आई आर डी यू]
के जे.बी. उरण, डक अधिकारी

New Delhi, the 25th April, 1992

S.O. 1291.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Northern Railway, Lucknow and their workmen, which was received by the Central Government on 23-4-92.

[No. L-41011/14/90-IR(DV)]
K. V.B. SUNNY, Desk Officer

ANNEXURE

BEFORE SHRI ARJAN DEV PRESIDING OFFICER
CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT,
PANDU NAGAR, KANPUR

In the matter of dispute between :

Zonal Working President,
Uttar Rly. Karamchhari Union,
96/196 Roshan Bajaj Lane,
Ganeshganj Lucknow.

AND

Sr. D. O. S., Northern Rly.,
Lucknow.

AWARD

1. The Central Government, Ministry of Labour, vide its notification No. L-41011/14/90/IR(D.U.) dt. 21-10-90 has referred the following dispute for its adjudication —

Whether the action of Sr. D.O.S., N.R. Lucknow in not providing cycles or cycle allowance

of Rs. 20/- per month to Sri Jethoo & Six others Callmen who are required to serve call books to the running staff covering distance more than 5 kms. is justified? If not, to what relief the workmen concerned are entitled?

2. The industrial dispute on behalf of the workmen has been raised by Uttar Rly. Karmachari Union, Lucknow, (hereinafter referred to as Union) through its Zonal Working President. The case of the Union is that all the 7 workmen are working under Station Suptd. Norther Rly. Lucknow and Sr. D.O.S. N.R. Lucknow. It is their duty to serve call books to Guards of Lucknow Station Head Quarters and in connection with the service of call books they have to cover a distance of about 5 to 10 Kms. Under extant Rules Callmen have to be provided with cycles or they are to be paid Rs. 20/- per month as cycle allowance for service of call books and maintaining of cycles. Whereas cycle allowance is being given to all callmen working under Sr. D.O.S. and Sr. D.M.E., N. Rly. Lucknow, the same is not being given to the callmen of Lucknow Rly. Station w.e.f. 1-1-86. The Union has, therefore, prayed that the management of the railway be ordered to provide the callmen of Lucknow Station Rs. 20 as cycle allowance from 1-1-1986 to them.

3. The case is contested by the Rly. management. The management admit the fact that all the workmen are working as callmen under S.S. Lucknow. According to the management as per extant Rules of Operating Manual para 4005-E Call Books shall not ordinarily be served on manning staff working to fixed links except a advise of late running of trains to be more than one hour or to advise the temporary chance in such links on account of sick leave etc. In case of running staff who have to work a train between the period of 22 hrs. to 6 hrs. call books must always be served on staff irrespectives of the fact whether or not such staff are working to fixed links provided such staff is residing in railway quarter within a reasonable distance of station, Locoshed, or taking rest in running room. The extant Rule nowhere provides giving of Rs. 20/- per month as cycle allowance for service of callbooks and maintenance of cycles to callman. On the basis of analysis of quantum of work posting of these callmen in each 8 hours shift is sufficient to manage the work. The management have then raised number of legal pleas, such as that there is no valid industrial dispute under sec. 2(k) I.D. Act; that the reference is bad in the eyes of law as the same is against the railway rules; that the workman have never made any representation in this regard to higherups and as such their claim is not maintainable; that the alleged Union is not a recognised Union of the management nor a registered trade Union and as such a Union has no legal right to raise the industrial dispute and that the workmen are not the members of the alleged Union. In view of all this, the case set up on behalf of the workman by the Union has no legal basis and is liable to be dismissed.

4. In its rejoinder, it has been alleged that callmen are being sent to cover 10 to 12 Kms. distance in serving callbooks in Chowk Thakurganj and Rajajipuram upto Alamnagar Rly. Station during night time. They have therefore to face anti-social element fre-

quently during the course of their duties. Since the callbooks are being served in this regard to Rule 4005-E of the Operating Manual it is necessary that either the service of these callbooks may be stopped or callmen be provided with cycles or be given cycle allowance. The Union has further alleged that Rules do not provide for giving of Rs. 20 per month as cycle allowance as the same is being to callmen of N. Rly. Locoshed and callmen of roster clerk in the Divisional Office. According to the Union there is a valid dispute and the recognition of the Union by the management is not a precondition for the creation of Union. Such questions including membership of the Union are matters which are to be looked into at the stage when the dispute is raised before the ALC(C) or for the determination of the Ministry of Labour.

6. In support of its case, the Union has examined Sri Jethu one of the workmen. No evidence has been adduced by the management in support of their case.

7. In this case the evidence of the parties was closed on 5-12-91 and 23-12-91 was fixed for hearing of argument. On 23-12-91 on the application for the Union for adjournment the case was adjourned to 5-2-92 for hearing arguments. As there was no time left to hear the arguments on 5-2-92, the case was adjourned to 2-4-92. On 2-4-92, an application through one of the workman was sent by Sri Tewari who is the Zonal Working President of the Union and who has been conducting the case for the Union was filed for the examination of two more witnesses in the case, but the application was rejected by means of a detailed order. Prior to the filing of application I had heard the arguments of Sri H. Qureshi auth. representative for the management.

8. Neither side has filed Rule 4005-E of the Operating Manual. So I am unable to know as to what these rules is. I may state here that no such book is available in the library of the Tribunal.

9. Irrespective of this Rule I find no force in the case set up by the Union on behalf of the workman in view of the unabiguous statements of Sri Jethu workman in para 4 of his statement in cross examination. He has deposed that about 10-11 months ago all the seven workmen were provided with cycle by the Rly. He has further deposed that prior to that they are used to be kept at the railway station Lucknow cycles and any callmen who wanted the cycle could take the cycle for doing official duty. I fail to understand how under these circumstances the Union have espoused the case of the callmen for giving them Rs. 20/- per month as cycle allowance when the facility of the cycle for the performance of duty was available to the workman before they were provided cycle by Rly. Administration.

10. Hence, I answer the reference against the Union.

ARJAN DEV, Presiding Officer

नई दिल्ली, 27 अप्रैल, 1992

क्र. प्र. 1292:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार श्रिटिक मैनेजर, टेलीफोनस, आगरा के प्रबंधन के संबंध में निम्नलिखित और उनके कर्मचारियों के बीच, अनुबंध में निहित, औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार की 27-5-92 को प्राप्त हुआ था।

[सं. एल-40012/109/89-डा-II (बी)]

के.वी.बी. उन्नी, डैस्क अधिकारी

New Delhi, the 27th April, 1992

S.O. 1292.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of District Manager, Telephones, Agra and their workmen, which was received by the Central Government on 27-5-92.

[No. L-40012/109/89 D.II(B)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE SRI ARJAN DEV PRESIDING OFFICER
CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL, PANDU NAGAR DEOKI
PALACE ROAD, KANPUR

Industrial Dispute No. 135 of 1990

In the matter of dispute between :

Sri Prabhu Lal Sharma,

S/o Sri Ram Prasad

51/10, 6/13/3 Raj Vidya Mandir ke piche

West Arjun Nagar Keria.

Agra.

AND

The District Manager,
Telephones,
Agra.

AWARD

1. The Central Government Ministry of Labour New Delhi vide its notification number L-40012/109/89-D-2(B) dt. 15-5-90 has referred the following dispute for adjudication to this Tribunal :

Whether the Distt. Manager Telephones Agra was justified in dismissing Sri Prabhu Lal Sharma Telecom Office Asstt. w. e. f. 28-10-85 ? If not to what relief the workman concerned is entitled ?

The workman's case is brief is that he was appointed as Telephone Office Assistant on 19-12-83. However, his services were terminated w.e.f. 28-10-85 on the ground that he had obtained employment on the basis of fake marksheets of High school and Intermediate. According to him he was not given duty from 1-2-85 to 27-10-85 nor he was paid salary of the said period. He alleges that on the basis of alleged forged document a criminal case was started against him but in the said case he was acquitted by the II ACJM Agra on 30-9-88. Thus the order of dismissal from service is neither legal nor justified. He has, therefore, prayed for his reinstatement with full 1104 GI/92—9.

back wages together with interest on the amount of back wages.

3. The management while admitting the fact that the workman was appointed as Telephone Office Assistant on 19-12-83, plead that he had worked upto 27-2-85 only. He was dismissed from service on 28-2-85, as he had procured service on the basis of forged and fabricated certificates. According to the management on inquiries from the Principal Bhubal Intermediate College Agra it came to notice that no such certificates were issued by the said institution. On the face of record the marksheet filed by him showed that he had appeared in the High School Examination in 1977 while High School Certificate filed by him showed that he had passed the High School Examination in 1976. The matter was reported by the management to D.I.G. Police Agra on 11-7-85 for taking criminal action against him. Upon that a criminal case was registered under section 420, 467/468 I.P.C. at P.S. Sadar Bazar, Agra against the workman. While admitting the fact that the II Ind A.C.J.M. Agra had acquitted the workman vide his judgement dt. 30-9-89, on the ground of failure of the prosecution to lead evidence, against the said order a revision no. 619/89 has been filed in the Hon'ble High Court of Judicature at Allahabad and the same is still pending. Since the matter is still sub-judice no further action can be taken in the matter. As such the workman's claim is liable to rejection.

4. In support of his case, the workman has examined himself. On the other hand, in support of their case, the management have led oral as well as documentary evidence. The management's oral evidence consists of the testimony of M.W. 1 Sri Babu Lal Office Assistant working in the office of Telephones District Agra and the testimony of M.W. 2 Sri R. S. Agrawal, Assistant Engineer Telephones Agra.

5. In this case it is admitted to both the sides that the post held by Sri Prabhu Lal Sharma was in the clerical cadre. Although no plea has been raised by the management that Sri Prabhu Lal Sharma's case does not fall within the provisions of I.D. Act, at the time of arguments Sri Surender Singh, the authorised representative for the workman has argued that the case of Sri Prabhu Lal Sharma is not covered by CCS and CCA Rules 1965. In support of his arguments he has referred to page 4 of the Book of these Rules by P. Muthuswamy. Under the main heading Government of India's Orders, there is a sub heading relating to persons to whom CCS & CCA Rules are not applicable. It is stated that in exercise of powers conferred by sub rule (2) of Rule (3) of CCS & CCA Rules 1957 (now 1965) the President hereby direct that the following classes of Government Servants shall be excluded wholly from the operation of these Rules. Certain categories of post & telegraph department under the Ministry of Communication have been mentioned as not covered by CCS and CCA Rules. In these categories the case of Sri Sharma, who was admittedly a regular appointee in the clerical cadre does not fall.

6. Moreover, the employees of Post & Telegraph Department excluded from the operation of these Rules have been shown as excluded by a notification No. SRO 609 dt. 28th February, 1957. The present CCS & CCA Rules have superseded earlier Rules of 1957. Rule (3) of the present Rules lays down that

these rules shall apply to every Government servant excluding every civilian government servant in the defence services. These rules then refers to categories of employees to whom these rules will not apply. Even in these categories the case of Sri Sharma does not fall.

7. It thus becomes evident that Sri Sharma who was given a regular appointment in the clerical cadre is subjected to CCS & CCA Rules, 1965. Being so in his case, the provisions of Article 311 of the Constitution are applicable.

8. In the circumstances he cannot be held to be a workman within the meaning of section 2(s) I.D. Act, 1947. He should better seek his remedy before Central Administrative Tribunal having jurisdiction.

9. Held that reference made by the Ministry of Labour Government of India, New Delhi, is incompetent as the case of Sri Prabhu Lal Sharma is not covered by the provisions of Industrial Disputes Act, 1947.

10. Reference is answered accordingly.

ARJAN DEV, Presiding Officer

नई दिल्ली, 27 अप्रैल 1992

का.प्र. 1293:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पश्चिम रेलवे मद्रास के प्रबंधन के संबंध निोजकों और उनके कर्मचारों के बीच अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-4-92 को प्राप्त हुआ था।

[सं एल 41012/4/84-डी-II-(वी)]
के.वी.बी. उन्नी, डेस्क अधिकारी

New Delhi, the 27th April, 1992

S.O. 1293.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Western Railway, Bombay and their workmen, which was received by the Central Government on 27-4-92.

[No. L-41012/4/84-DII(B)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE SHRI GANPATI SHARMA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NEW DELHI

I. D. No. 33/88

In the matter of dispute between :

Shri Khwaja Khan, Casual Labour, Through Divisional Secretary, Paschim Railway Karamchari Parishad In front of Bank of Bikaner and Jaipur, Kota Jn.

Versus

1. The General Manager, Western Railway, Charchgate, Bombay.
2. The Executive Engineer (S&C) I, Western Railway, Kota Jn.

APPEARANCES:

Shri A. D. Grover—for the workman.

Shri A. N. Sharma—for the Management.

AWARD

The Central Government in the Ministry of Labour vide its order No. L-41012(4)/84-DII(B) dated 12th July, 1984 has referred the following industrial dispute to this Tribunal for adjudication :

"Whether the action of the General Manager, Western Railway Bombay and the Executive Engineer (S&C) I Western Railway Kota in causing discontinuity in the service of Shri Khwaja Khan, casual labourer in April, 1983 is justified? If not to what relief is the concerned workman entitled?"

2. The case was fixed today for the evidence of the workman. Statement was recorded and he was cross-examined. Shri A. D. Grover representative for the workman after having gone through the record of the Management, which was brought on that day, made statement that the workman has been granted temporary status w.e.f. 1-1-92 as per office order No. 500 dated 15-6-1989. The period involved in this dispute was covered by the said period and the same has been adjusted as leave. He further stated that no dispute award may be passed in this case.

3. In view of the statement of the representative for the workman there exist no dispute for settlement between the parties, as his claim has already been covered by the order of the management. I, therefore, pass a No Dispute award in this case leaving the parties to bear their own costs of the dispute.

GANPATI SHARMA, Presiding Officer

Central Tribunal

10th April, 1992.

नई दिल्ली, 28 अप्रैल, 1992

का.प्र. 1294:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टेलिकॉम विभाग मद्रास के प्रबंधन के संबंध निोजकों और उनके कर्मचारों के बीच अनुबंध में निहित औद्योगिक विवाद में औद्योगिक अधिकरण, मद्रास के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-4-92 को प्राप्त हुआ था।

[एल-40012/5/88-डी-II-बी (पाटं)]

के.वी.बी. उन्नी, डेस्क अधिकारी

New Delhi, the 28th April, 1992

S.O. 1294.—In pursuance of Section 17 of the Industrial Disputes Act 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Madras as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Telecommunications Department, Madras and their workmen, which was received by the Central Government on 25-4-92.

[No. 40012/5/88-DII.B(Pt)]

K. V. B. USNY, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL, TAMIL
NADU, MADRAS

Wednesday, the 25th day of September, 1991

PRESENT :

Thiru M. Gopalaswamy, B.Sc., B.L.,
Industrial Tribunal.

INDUSTRIAL DISPUTE NO. 54 OF 1988

(In the matter of the dispute for adjudication under section 10(1)(d) of the Industrial Disputes Act, 1947 between the workman and the management of Madras Telephones, Department of Telecommunication, Madras).

BETWEEN

Thirumathi Chella Subbamma,
No 48, Vasuki Nagar, Brighton Road,
Perumbur Barracks, Madras-12.

AND

The General Manager,
Madras Telephones,
Department of Communication,
Government of India, Madras-600001.Reference : Order No. L-40012/5/88-D.II(B), dated
1-8-1988 of the Ministry of Labour, Gov-
ernment of India, New Delhi.

This dispute coming on for final hearing on Monday, the 9th day of September, 1991 upon perusing the reference, claim and counter statements and all other material papers on record and upon hearing the arguments of Thiruvallargal Row and Reddy and R. Vaigai, Advocates appearing for the workman and of Thiru S. Seshadri, Central Government Pleader appearing for the management and this dispute having stood over till this day for consideration, this Tribunal made the following.

AWARD

This dispute between the workman and the management of Madras Telephones, Madras arises out of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947 by the Government of India in its Order No. L-40012/5/88-D.II(B), dated 1-8-1988 of the Ministry of Labour, for adjudication of the following issue :

"Whether the management of Madras Telephones through its General Manager, Madras Telephones, Madras is justified in terminating services of Smt. Chella Subbamma w.e.f. 3-5-1986 ? If not, to what relief the said workman is entitled to ?"

(2) The Petitioner Thirumathi Chella Subbamma alleges as follows : She entered under the Respondent as Part-time Sweeper-cum-Scavenger with obligation to work four hours daily. Gradually the working hours rose to eight hours in 1974. Her name was included in the muster roll from 1974. The wage last paid to her was Rs. 25/- per day. Her services were terminated by the Respondent illegally on 3-5-1986. During the period of employment, work was extracted from her on all days including Sundays, but she was not paid

wages for all days of work. The Respondent is liable to follow the orders of the Government of India directing that part time and casual employees should be given regular employment, the Petitioner was frequently asking the Respondent to appoint her in a permanent capacity. But her request was turned down. The Petitioner was orally informed that she would not be given work after 3-5-1986. This kind of denial of employment to the Petitioner is illegal in terms of the Industrial Disputes Act. She was not paid any compensation under Section 25-F of the Industrial Disputes Act. It is a case of illegal retrenchment which should be set aside. Hence an award may be passed for reinstatement and other reliefs.

(3) The respondent in its counter states as follows: The respondent is not a profit making industry but only rendering essential service to the Public. The Petitioner was appointed as a part-time sweeper on 4-12-1958. She was not asked to work on holidays including Sundays. Even after 3-5-1986, the Respondent permitted the Petitioner to work as a Sweeper during 1987 and 1988 whenever there was work. The Respondent was not in a position to appoint the Petitioner in a regular post due to her over age, she was very old even at the time of initial appointment. The Petitioner is not entitled to retirement benefits such as gratuity retrenchment compensation, because she was only a part-time employee all along. The claim is misconceived and liable to be dismissed.

(4) The Points for determination arises in this industrial dispute are as follows :

(i) Whether the non-employment of the Petitioner as part-time Sweeper-cum-Scavenger with effect from 3-5-1986 is lawful and just ?

(ii) To what relief if any the petitioner is entitled ?

5. POINTS (i) & (ii).—Exs. W-1 to W-13 and M-1 were marked by consent. No oral evidence has been let in by both sides. The Petitioner Thirumathi Chella Subbamma has not chosen to give oral evidence regarding her date of birth and correct age. It is admitted in the Petition itself that she was all along employed only as a part-time sweeper. Her request to be appointed in a regular capacity (i.e.) on a permanent basis has not been complied with. Hence we have to presume that she continued to work from 1958 till the last day only as a part-time sweeper. Ex. W-1 is a copy of the work card of casual mazdoor, the Petitioner herein in which her date of birth is noted as 5-2-1934. This is not a material and reliable document capable of proving her date of birth. The Petitioner has worked as a casual and part-time sweeper from 4-12-1958 till 2-5-1986. Yet the Respondent should have retrenched the Petitioner by complying with Section 25-F of the Industrial Disputes Act and paying retrenchment compensation. Even assuming that the Petitioner had already crossed the age of 58, even prior to 2-5-1986 and whatever be

the hours of work she put in every day, she is nevertheless an employee to whom Section 25-F is applicable. In view of the Petitioner's failure to prove her age, it will not be proper to direct her reinstatement in service on the ground that the retrenchment is unlawful. It is pertinent to note that the Petitioner has been paid gratuity after she secured an order for the payment of gratuity from the Assistant Commissioner of Labour under the relevant rules framed under Gratuity Act, 1972. So, we have to conclude that denial of employment in spite of the old age of the Petitioner is illegal in terms of Section 25-F and she must be paid compensation calculated in terms of the Industrial Disputes Act and notice pay. Her claim for reinstatement is liable to be dismissed in the absence of evidence regarding her date of birth. These points are answered accordingly.

(6) In the result, an award is passed directing the Respondent to pay retrenchment compensation and notice pay to the Petitioner worked out under the Industrial Disputes Act. In other respects, the claim of the Petitioner-workman is dismissed. No costs.

Dated, this 25th day of September, 1991.

THIRU M. GOPALASWAMY, Industrial Tribunal

Witnesses Examined

For both sides : None.

Documents Marked.

For workman :

- Ex. W-1/4-12-58—Appointment order issued to the Petitioner-workman Tmt. Chella Subbamma (xerox copy).
- Ex. W-2/2-12-71—Service certificate issued to Petr.—Workman (xerox copy).
- Ex. W-3/15-10-79—Letter from Management to the Petr.-Workman stating the non-eligibility for regular absorption (xerox copy).

Ex. W-4/18-7-80—Statement showing no. of days worked by the Petr. workman during 1974 to 1980 (xerox copy).

Ex. W-5/18-7-80—Petition u/s. 2-A of the I. D. Act filed by the Petitioner-workman before the Asst. Commissioner of Labour (Central), Madras. (xerox copy).

Ex. W-6/11-1-88—Conciliation Failure Report (copy).

Ex. W-7/29-12-87—Order of the Controlling Authority under the payment of Gratuity Act. (xerox copy).

Ex. W-8/29-12-87—Notice for payment of gratuity from the office of the Regional Labour Commissioner, Central, Madras to the Management (xerox copy).

Ex. W-9/12-4-88—Recovery proceedings for recovering gratuity from the Petitioner-workman issued by the Regional Labour Commissioner (Central), Madras. (xerox copy).

Ex. W-10/28-8-89—Xerox copy of cheque issued to the Petr. Workman by the Govt. of India, Ministry of Communication, for Rs. 10,500 as per the order of the controlling authority.

Ex. W-11/28-8-89—Work card issued to the Petitioner-workman (xerox copy).

Ex. W-12/22-1-80—Letter from the Management to the Petitioner-Workman rejecting her application. (xerox copy).

Ex. W-13/21-2-77—Community Certificate issued to the Petitioner by Tahsildar, Udayagiri. (xerox copy).

For Management :

Ex. M-1/3-10-87—Stamped receipt for having received Rs. 396.20 from the Management. (xerox copy).

INDUSTRIAL TRIBUNAL